# THE COAL MINES REGULATION ACTS 1887—96

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Mines Agent
Anthracite District

THE

# COAL MINES REGULATION ACTS

## 1887—1896

WITH

*AN INTRODUCTION AND FULL NOTES*

AND

Appendices containing Official Information (including Instructions for Candidates for Examination as Managers, &c.); The Truck Acts, 1831–96; and also a Discussion of the Law as to Checkweighing.


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# PREFACE.

THE Coal Mines Regulation Act, 1896, can only be understood by a person who has previously completely mastered the Coal Mines Regulation Act, 1887, as supplemented by the Coal Mines (Check Weigher) Act, 1894, which the Act of later date was passed to amend.

The passing of the Act of 1896, and the fact just pointed out, suggested to the minds of the Authors that there would be a hearty welcome given in many quarters to a carefully annotated edition of these three Acts, prefaced by an Introduction, written in plain terms, by which such Acts were rendered intelligible to persons other than lawyers. On the one hand, mine owners, mine agents, managers, sub-managers, and candidates for certificates of competency as managers, are in every day life in need of such a book. On the other hand, a work of the nature indicated will be of great utility to secretaries of miners' associations, to the secretaries of trade unions, and to not a few practical working miners themselves.

In the following pages it has been endeavoured to supply such a book.

In addition to the Official Instructions stating the changes in the Law made by the Act of

1887, which is contained in the Introduction, at pp. 6—13, and is, perhaps, somewhat technical, and to the Official Abstract of the Act of 1887 issued from the Home Office, which is printed as Appendix I. to this work, an Historical Summary of the whole of the existing Law regulating Coal Mines up to the present date has been written by the Authors themselves and inserted in the Introduction, purposely made as free from technical expressions as possible. A few points, suggested by practical experience, will also be found in the notes to the sections of the Act. For some of these, as well as for other practical suggestions, which his great experience in mining matters enables him especially to offer, the Authors have to express their hearty thanks to Sir W. T. Lewis, Bart. They are also indebted to the officials of the Mines Department of the Home Office for the great readiness with which they furnished Forms and information with regard to the working of the Coal Mines Regulation Acts, 1887—96. Any similar suggestions, either from practical miners, or from members of the legal profession, or the pointing out of some of the many omissions and imperfections which, the Authors fear, are to be found in their work, will be received with gratitude.

B. FRANCIS-WILLIAMS.
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TEMPLE,
*November*, 1896.

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# INTRODUCTION.

The Coal Mines Regulation Act, 1887 (50 & 51 Vict. c. 58), the Coal Mines (Check Weigher) Act, 1894 (57 & 58 Vict. c. 52), and the Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43), are to be cited collectively as "The Coal Mines Regulation Acts, 1887 to 1896" (1896, s. 7). Taken together, they form an important code of statutory regulations governing the working of coal mines. The term "mine" in these Acts includes every shaft in the course of being sunk, and every level or inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to the mine (1887, s. 75); while, if any question arises (otherwise than in legal proceedings) whether or not a mine is one subject to the Acts or to the Metalliferous Mines Act, 1872 (35 & 36 Vict. c. 77), such question may be finally decided by a Secretary of State (1887, s. 71). As, in addition to the word "mine," the term "owner" and also the term "agent," as well as those of "manager" and of "under-manager," will be frequently used in this Introduction, it will be useful to point out that "owner" is defined by the interpretation clause (1887 s. 75) to be the person or body corporate who is the immediate proprietor or lessee or occupier of a mine, or any part of a mine, but does not include persons receiving royalties, or merely proprietors of a mine subject to a lease, and that "agent" means, when used in connection with a mine, any person appointed as representative of

the owner in respect of such mine or any part thereof, and, as such, superior to a "manager" appointed in pursuance of the Act. The interpretation clause of the Act does not define a "manager." But who he is may be gathered from sect. 20 of the Act of 1887; while who is an "under-manager" can similarly be collected from sect. 21 of the same Act. A manager is required to hold a first-class certificate, and an "under-manager" to hold at least a second-class one and a written nomination from the owner.

The legislation embodied in the Coal Mines Acts, 1887—1892, affords a striking instance of that class of provisions of which the Factory Acts are the type. All legislation of this kind is, in the first instance, dictated by that humane and anxious solicitude for the safety, comfort, and well-being of those engaged in labour, which is the natural and marked characteristic of all modern legislatures elected on the basis of popular representation.

Legislation on any subject can only be understood, its effects properly grasped, and its true construction arrived at, by a person who is previously possessed of a general acquaintance with its history, and is, in particular, aware of the evils existing before its initiation which it was brought into being to remedy.

In the early days of the present reign the condition of the workers, both in factories and in mines, was most deplorable and degrading. It would be foreign to the present subject to say more as to the then condition of factories, or as to the legislation with regard to them which was in consequence introduced. But Lord Shaftesbury, then Lord Ashley, whose philanthropic efforts to better the condition of the labouring classes are ever gratefully remembered by them, besides interesting himself on behalf of the factory hands, also procured the appointment of a Royal Commission to inquire into the condition of workers in coal mines. The awful state of things brought to light by this Commission led to the introduction, in 1842, of a Bill founded on its report, which in the same year became law as 5 & 6 Vict. c. 99, and was the

first of the series of Acts regulating coal mines. Many of the provisions of the Acts now in force appear strange to a reader who is not previously acquainted with the history of the subject dealt with by them, and might even appear to such a reader to be objectless and unnecessary. Each of them is, however (save where suggested by subsequent experience), founded upon enactments contained in the original Act of 1842, which were expressly aimed at various abuses which the then recent Royal Commission had brought to light. An interesting, but very harrowing, story of the state of things which then existed will be found in an account of Lord Shaftesbury's speech introducing the Act of 1842 into the House of Commons, which is contained in the "Annual Register" for 1842 (at p. 161), and to this a student of the Acts will do well to refer in all cases of obscurity or of doubt as to the construction of clauses. Space forbids its quotation here at any length. It shows that moral degradation and physical suffering were alike entailed by the systems under which coal mines were worked about two generations ago. Children were set to work in the mines at a very early age; women were, except in Irish mines, employed in such a manner that not only did they almost universally become utterly demoralized, but were set to labour which rendered them physically unfit to undertake the duties of maternity. Men, women, and children were alike compelled to work, under conditions fatal to their health, in mines whose workings were terribly narrow and cramped for space, which were choked with fire-damp, impregnated with foul air, and without any efficient drainage or ventilation, where the workers often stood with their feet in water all day. The hours of labour were unrestricted by law or custom, and were often excessive and enormous. The labour imposed upon women and children (who often worked almost in a state of nudity) was of an extremely painful and degrading nature, and totally unsuited to them. The physical evils alone which resulted from such a degraded state of matters were great. But education being, of course, totally unknown

in mines such as these, immorality and crime were rife in and around them.

It was to remedy a state of things such as that just faintly described that the Act of 1842 was passed.

The Act of 1842, though it was the outcome of the investigations of a Royal Commission, did not contain any provisions for the appointment of inspectors whose periodical visits to mines should, for the future, render impossible any such awful abuses as those which the Royal Commission had brought to light. After only eight years' experience of the highly beneficial results which followed from the earlier Act, even in its imperfect form, another Act (13 & 14 Vict. c. 100) was passed in 1850, making, for the first time, provision for the inspection of coal mines throughout Great Britain, by empowering a Secretary of State (in practice, the Home Secretary) to appoint and remove inspectors of coal mines, and defining the powers, duties, and necessary qualifications of such inspectors.

The law was again amended, and rendered more stringent, by an Act (18 & 19 Vict. c. 108) passed in 1855, or only five years later. By this Act of 1855 the Act of 1850 was repealed, but in substance re-enacted with provisions (which were then new) for the establishment of rules in coal mines. Certain general rules were laid down for all collieries, which form the basis of the elaborate set of general rules now in existence; and power was also given to establish special rules for individual collieries. Five further years having elapsed, the law was, in 1860, again amended by the Mines Regulation and Inspection Act, 1860 (23 & 24 Vict. c. 151). By this Act of 1860 the Act of 1855 was, in its turn, repealed, and in substance re-enacted with further provisions by which its operation was extended to ironstone mines (only coal mines having previously been subject to the Acts); the employment of boys under twelve years of age was forbidden, except they were over ten and had certificates of school attendance; further provisions made as to the establishment of special rules, and also (amongst others) empowering the inspectors

to give notice to the owners of dangers not provided for by special rules, and requiring notice of accidents in mines, and of certain other matters, to be given by the owners to the Secretary of State and to the inspector for the district, and inquests to be held on persons who had been killed by certain accidents in mines. In 1872 (or twelve years later) the Acts relating to the regulation and inspection of coal mines were consolidated by the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76). The whole of the previous legislation regulating coal mines was repealed by this Act, but in substance re-enacted with additions and improvements. Lord Shaftesbury's Act of 1842 was, it may be here added, in the same year repealed by a sister Act to that under consideration, namely, the Metalliferous Mines Regulation Act, 1872, which applied to all other mines the substance (so far as applicable) of the legislation which had proved so successful in the case of coal mines. In the interval between 1860 and 1872 the sad and memorable accident had, in 1862, occurred at the Hartley Colliery, and demonstrated the danger of mines worked with a single shaft. The new Act accordingly (among other improvements in the law) prohibited single shafts. It also prohibited the payment of wages in public-houses; made the owner and the manager of a mine severally liable to a penalty of 20*l.* for non-compliance by any of the miners with the rules of the mine unless they proved that they did their best to enforce such rules; established the system of check weighing as (with improvements) it still exists, and also established an examination for managers; required them to be "certificated" as having passed such examination; enabled the certificates of managers who had proved themselves incompetent to be cancelled after previous inquiry, and also required every mine to be inspected at least once in twenty-four hours, and the workmen to be withdrawn from a mine found to be dangerous. The Act also contained provisions enabling the miners to appoint inspectors of their own. This Act of 1872 remained in force for fifteen years, at the end of which period it was repealed by the Coal Mines Regulation Act, 1887,

which, as before pointed out, forms, together with the Coal Mines Regulation Acts of 1894 and 1896, the code now in force on the subject.

The changes in the law effected by the Coal Mines Regulation Act, 1887, as compared with the law which existed up to that time, were summarized in some Instructions officially issued, under date 1st January, 1888, to its inspectors (*a*) by the Home Office. These Instructions contained an official description of the changes in the law made by the Act of 1887, which is in substance, and with merely verbal alterations, as follows :—

"The most important of the alterations in the law relate to subjects recently investigated by the Royal Commission appointed to inquire into accidents in mines. The following are the principal alterations :—

*Employment Underground.*—Subject to the temporary saving in section 82, no boy under twelve may be employed, section 5 of the Act of 1872, which authorized the employment of boys between ten and twelve in a thin seam mine, if exempted by the Secretary of State, being struck out (s. 4).

The term "young person" is dropped, and—

"Boy" defined as a "male under sixteen."

"Girl" ,, ,, "female under sixteen" (s. 7).

*Employment above Ground.*—The earliest age at which boys and girls may be employed is twelve instead of ten (s. 7).

Note the prohibition (sub-section 8) of boys, girls, and women from being employed in moving railway waggons.

*Education.*—The sections in the Act of 1872 relating to education, with the exception of the provision authorizing the deduction of school fees from wages, have been omitted. The effect of this is, that attendance at school will be regulated exclusively by the Elementary Education Acts, and the inspector and any officer of a school board or school attendance committee in the district in which the mine is situate is to have access to the employment register kept at the mine; but it will continue to be the duty of the inspector of mines, as hitherto, to enforce the provisions of the Elementary Education Acts, as against employers (as distinguished from parents) (s. 8).

*Check weigher.*—These provisions, so far as they vary from the corresponding provisions of the Act of 1872, are intended to meet the difficulty raised in the case of the Netherseal Colliery (*Bourne* v. *Netherseal Colliery Co.*, 13 July, 1887, 19 Q. B. D. 357) (ss. 12, 13).

In that case the gross weight of the full tubs was duly weighed as prescribed by the Act of 1872, but the deductions on account of slack were ascertained by a subsequent operation, necessarily conducted not

(*a*) These Instructions contained a great deal of matter of a personal nature for the guidance of inspectors, which it is not thought desirable to reprint. They are therefore not printed in this Introduction. But the extract from them contained above will be useful to persons seeking a minute acquaintance with the Act.

in the presence of the check weigher, who was engaged in attending to the weighing of the full tubs. The Court disallowed all deductions so ascertained as not being authorized by law. In order to legalise the process the Act authorizes the appointment of an additional check weigher for the purpose of ascertaining the deductions, and also sanctions such determination in any manner that may be agreed upon between employers and employed.

The weighing of the mineral is to take place at a place as near to the pit mouth as is reasonably practicable (s. 12 (1)).

The power of the Secretary of State to authorize payment by measure is henceforth limited to mines employing not more than thirty persons below ground, and only to be exercised upon the joint representation of employers and employed (s. 12 (3)).

The check weigher's duties are strictly defined in this section, and he is not liable to removal for anything done elsewhere than at the mine (s. 13).

The person appointed by the owner, agent, or manager to weigh the mineral will be guilty of an offence against the Act if he interrupts the check weigher, or tampers with the weighing machine or the tare (s. 13 (8)).

The provisions rendering every workman paid by weight liable for his proportion of the wages of a check weigher appointed, on a ballot, by the majority of the workmen similarly paid in the mine, and allowing the owner or manager to retain the agreed contribution from wages of such workmen, are taken from the Act of 1886 (s. 14).

The inspector of weights and measures under the Weights and Measures Act, 1878, is required to inspect the weighing apparatus at every mine once at least in every six months (s. 15).

*Single Shafts.*—The substantial variations from the corresponding provisions of the Act of 1872 are (ss. 16, 17, 18) that the space separating the two shafts has been increased from 10 feet to 15 yards, and that the height of the communication required between the shafts has been raised from 3 feet to 4 feet. Neither of the variations, however, applied retrospectively (s. 16 (1) (*b*), and s. 18, *ad fin.*); and power is given to the Secretary of State to grant exemptions from the provisions prohibiting single shafts where the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second shaft or outlet, or by establishing communication with a second shaft or outlet in any case where such communication existed, and has become unavailable (s. 18 (ii.) (a)); and to exempt thin seam mines from the requirements as to the dimensions of the communication between the shafts (s. 18, *ad fin.*).

*Manager and Under-Manager.*—As under the Act of 1872, a mine is required to be under the control of a certificated manager; but from this requirement are exempt, as before, mines in which not more than thirty persons are employed underground, not, however, mines of which the daily output does not exceed twenty-five tons (ss. 20—23).

Provision is, by the Act of 1887, made for the granting of two kinds of certificates of competency upon examination, (i) first-class, that is to say, certificates of fitness to be manager; (ii) second-class, that is to say, certificates of fitness to be under-manager: also for the granting of certificates of service, equivalent to second-class certificates of competency, to those who before the passing of the Act (16th September 1887) were exercising, and shall since that date have exercised, or

who at any time within five years before the passing of the Act have, for a period of not less than twelve months exercised, functions substantially corresponding to those of an under-manager in a mine (s. 80).

All certificates, whether of competency or service, under the Act of 1872, which were in force immediately before the commencement of the Act of 1887 are equivalent to first-class (managers') certificates granted under the Act of 1887 (s. 79).

The manager must have a first-class certificate. The under-manager may have a first or a second-class certificate.

Neither the manager nor the under-manager may be a contractor for mineral, or employed by such a contractor.

Daily *personal* supervision must be exercised either by the manager or by an under-manager nominated in writing by the owner or agent of the mine. The under-manager, in the absence of the manager, has the same responsibility, and is subject to the same liabilities, as the manager, but the nomination of an under-manager will not affect the personal responsibility of the manager (s. 21).

*Boards for Examinations.*—No candidate for a certificate of competency is eligible who has not had practical experience in a mine for at least five years (s. 23 (1)).

The three examiners representing the working miners may be either persons actually employed as such or persons who have been so employed (s. 23 (2) (*b*)).

The examination and qualification of applicants for second-class certificates of competency are to be suitable for practical working miners (s. 24 (2)).

*Returns.*—Instead of the two annual returns of 1st January and 1st February, required by the Act of 1872, there is to be only one return (Schedule III.) on 21st January, which will substantially combine the particulars of both; but a return of the particulars contained in Part B. of the schedule is not required in the case of mines which are not required by the Act to be under the control of a certificated manager, *i.e.*, in which not more than thirty persons are employed below ground (s. 20 (3) (*c*)) (s. 33).

The Act only prohibits the publication without consent of that portion of any individual return which relates to the quantities of mineral gotten or wrought, and allows such portion to be examined by commissioners incorporated by Act of Parliament for the drainage of mines, and authorized to assess and levy rates in respect of minerals gotten in individual mines.

*Plans.*—The plan of the mine to be kept at the office must show the workings up to a date not more than three months previously (instead of six months as under the Act of 1872, s. 17), and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or, if that is not reasonably practicable, a statement of the depth of the shaft with a section of the seam. It is to be on a scale not less than that of the Ordnance Survey of 25 inches to the mile, or on the same scale as the plan for the time being in use at the mine. The inspector may, for official purposes only, make a copy of any part of the plan or section (s. 34).

In case of default, after the expiration of twenty days from the time of a requisition by the inspector, allowance of further time (if any) lies in the discretion of the Secretary of State (s. 34 (4)).

*Accidents.*—Sub-section 2 is new. Where loss of life or serious personal injury has immediately resulted from an explosion or accident, the place where the explosion or accident occurred is to be left as it was immediately after the explosion or accident until the expiration of at least three days after the sending of the prescribed notice of such explosion or accident to the inspector of the district on behalf of the Secretary of State, or until the visit of the place by an inspector, whichever first happens, unless compliance with this enactment would tend to increase or continue a danger, or would impede the working of the mine (s. 35).

*Notice of Opening, Abandonment, and Recommencement.*—These provisions are the same as the corresponding provisions in the Act of 1872, except that they apply to seams as well as shafts. The word "principal" is added before "officers of any incorporated company" in sub-section (4) (s. 36).

*Fencing in case of Abandonment.*—Sub-sections (3) and (4) are new. "No person shall be precluded by any agreement, &c. from complying with the requirements of this section. Wilfully to obstruct the carrying of them into effect is an offence against the Act (s. 37).

*Plans of Abandoned Mines.*—These provisions apply to an abandoned seam as well as to an abandoned mine. The plan must be on a scale not less than that of the Ordnance Survey of 25 inches to the mile, or on the same scale as the plan used at the mine at the time of abandonment (s. 38).

By sub-section (3) the owner is required within three months of the abandonment to send to the inspector of the district a return, corresponding to the annual (21st January) return, for the months of the current year during which the mine or seam was worked.

The penalty for breach of this section may be as much as 30*l.*, and proceedings in regard to an offence under this section may be commenced at any time within six months after the abandonment or after service on the owner of a notice to comply with the requirements of the section, whichever last happens.

*Inspectors.*—In addition to the disqualifications created by the Act of 1872 for the office of inspector, the present Act expressly declares that an inspector may not be either a miner's agent or mine owner, nor may he be a partner, or have any interest direct or indirect in any mine in the district under his charge (s. 40).

The matters with respect to which an inspector is authorized to make a requisition on the owner, agent, or manager on the ground that they are dangerous or defective, so as in his opinion to threaten or tend to the bodily injuries of any person, now include any matter connected with the control, management, or direction of the mine by the manager. This provision will enable the inspector to interfere when it appears to him that the manager has more mines under his control than he can safely manage. No requisition, however, under this section with respect to any matter will be taken by the inspector without the consent previously obtained of the Secretary of State (s. 42).

The obligation of inspectors to make an annual report to the Secretary of State, to be laid before Parliament, is now limited to inspectors of districts. Assistant inspectors will make reports to the inspector under whom they are serving, as he may from time to time direct (s. 43).

The annual reports are to be sent to the Home Office by 31st March in each year.

Section 45 enables the Secretary of State to direct a formal investigation by a competent person and to appoint any person or persons possessing legal or special knowledge to act as assessor or assessors (s. 45).

*Inquests.*—If an explosion or accident has not occasioned the death of more than one person, and the coroner has sent to the inspector of the district notice of the time and place of holding the inquest at such time as to reach the inspector not less than twenty-four hours before the time of holding the same, it shall not be imperative on him to adjourn the inquest in pursuance of this section, if the majority of the jury think it unnecessary so to adjourn (s. 48 (4)).

The Act of 1887 gives power to any relative of any person whose death may have been caused by an explosion or accident with respect to which an inquest is being held, and to the owner, agent, or manager, and to any person appointed by the order in writing of the majority of the workmen employed at the mine, to attend and examine any witness either in person or by his counsel, solicitor, or agent, subject nevertheless to the order of the coroner (s. 48 (8)).

*Special Rules.*—Special rules are required by the Act of 1887 to be established in every mine, such as under the particular state and circumstances of such mine may appear best calculated to prevent dangerous accidents, and to provide for the safety, *convenience*, and proper discipline of the persons employed in or about the mine (s. 51).

Such special rules will apply to the mine for which they have been established, and also (without further sanction) to any extension thereof.

A new set of special rules had, as the Instructions pointed out, to be framed for every mine before the 1st April, 1888. And the Act required that they should determine, amongst other matters,—

(a) The time before the commencement of each shift within which the inspection of the mine by a competent person or competent persons under General Rule 4 is to be made (General Rule 4 (i.)).

(b) The point in the shaft beyond which the cage shall not be wound up at a speed exceeding three miles an hour in mines where the winding apparatus is not provided with some automatic contrivance to prevent over-winding (General Rule 26).

*Penalties.*—The effect of these two sections taken together and in connection with the provisions of the Summary Jurisdiction Acts is that proceedings against the owner, agent, manager, or under-manager may, if the offence has been committed personally by him, be instituted by the workmen without any authorization from the Secretary of State; but in other cases can be instituted by the workmen only with such authorization, or else by an inspector (ss. 61 and 65).

Where the owner, agent, or manager of a mine has taken proceedings under the Act against any person employed in or about a mine in respect of an offence committed under the Act, he must, within twenty-one days after the hearing of the case, report the result thereof to the inspector of the district (s. 66).

The following persons may not, except with the consent of both

parties to the case, act as a court or member of a court of summary jurisdiction in respect of any offence under the Act:—

(1.) The owner, agent, or manager of any mine.
(2.) A miner or miner's agent.
(3.) The father, son, or brother, or father-in-law, son-in-law, or brother-in-law of (1) and (2).
(4.) A director of a company being the owner of a mine (s. 69).

*Notices* may be in writing or print, including lithograph (s. 73).

*Sanitary Arrangements.*—Section 38 of the Public Health Act, 1875, applies as follows:—

Where it appears to any local authority by the report of their surveyor that persons of both sexes are employed, or intended to be employed, at one time in any portions of a mine which are above ground, the local authority may, if they think fit, by written notice require the owner of the mine, within the time therein specified, to construct a sufficient number of water-closets, earth-closets, or privies, and ashpits for the separate use of each sex (s. 74).

*Temporary Exemptions.*—The provisions of the Act shall not—

(a) Prevent a boy under the age of twelve years who, before the commencement of this Act, is lawfully employed in any mine below ground from continuing to be employed in a mine; nor
(b) Prevent a boy or girl who, before the commencement of this Act, is lawfully employed above ground in connection with any mine from continuing to be employed above ground in connection with a mine; nor
(c) Prevent a competent male person above the age of eighteen years who, before the commencement of this Act, is lawfully employed in working the machinery used for lowering and raising persons in a mine from continuing to be so employed;

in like manner and subject to the same provisions and regulations as before the commencement of this Act, and the provisions of the Acts repealed by this Act with respect to the employment of such boy or girl or competent male person shall continue to apply accordingly (s. 82)."

In addition to the changes in the law described above, the General Rules existing under the Act of 1872 were considerably varied by the Act of 1887 in sundry points of detail, which the Instructions above quoted from, with a verbal alterations, summarized as follows:—

"Rule 1. *Splits.*—The provision that in the case of mines required by the Act to be under the control of a certificated manager the quantity of air in the splits are to be measured and recorded once a month was new.

Rule 2. *Dumb Drifts.*—This provision was new, but did not operate retrospectively.

Rule 3. *Position of Fan.*—This provision was new, but did not operate retrospectively.

Rule 4. *Inspection as to Ventilation.*—The principal variations from the old law were—

(a) That the persons inspecting are not to be contractors for getting mineral.

(b) That the inspection is to be within such time immediately before the commencement of each shift as shall be fixed by special rules.

(c) That the inspection is not limited to ventilation, but is expressly declared to extend to the roof and sides and general safety.

(d) That the person inspecting is himself to sign, and also to write the report.

(e) That a like inspection (without a report) is required in the case of each shift.

Rule 5.—The *guides and conductors* in the shaft were in future to be the subject of a daily instead of a weekly inspection.

Rule 8. *Safety Lamps.*—This was a new provision, that where it is necessary to work the coal in any part of a district with safety lamps it shall not be allowable to work the coal with naked lights in another part of the same ventilating district situated between the place where such safety lamps are used and the return air-way.

Rule 9. *Construction of Safety Lamps.*—This provision was new and of extreme importance.

Rule 11. *Position of Lamp Stations.*—A new rule.

Rule 12. *Use of Explosives.*—This general rule was of the highest importance, requiring the most careful attention.

Rule 13. *Water and Boreholes.*—The prohibition that the working shall not exceed 8 feet in width applies to a distance of 40 yards from any place likely to contain a dangerous accumulation of water.

Rule 14. *Manholes for travelling Planes worked by Machinery.*—The interval between the manholes is not to exceed 10 yards in the case where there is not room for a person to stand between the side of a tub and the side of the plane, unless the tubs are moved by an endless chain or rope. The signals are to be "distinct and definite."

Rule 15. *Engine-Room.*—The provision that there shall be at least two proper travelling ways into every steam-engine room and boiler gallery was new.

Rule 17. *Dimensions of Travelling Roads.*—This provision was new.

Rules 18 and 19. *Fencing.*—The top of the shaft is to be kept securely fenced, and the sump, if any, of every working, ventilating, or pumping shaft is included.

Rule 22. *Timbering.*—This rule was new.

Rule 24. *Attendance of Engineman.*—The age was raised to 22. This provision did not apply retrospectively.

Rule 26. *Winding.*—This rule was new. It requires that, unless the winding apparatus is provided with some automatic contrivance to prevent over-winding, the cage, when men are being raised, is not to be wound up at a speed exceeding three miles an hour after the cage has reached a point in the shaft to be fixed by the special rules.

Rule 30. *Break.*—If the drum is not on the crank shaft there must be an adequate break on the drum shaft.

Rule 32.—A *safety valve*, &c. was required to be attached to every steam boiler, whether separate or one of a range.

Rule 33.—A *barometer and thermometer* were required at every mine.

Rule 34. *Stretchers.*—This provision was new.

Rule 38. *Inspection by Miners.*—So much was new of this rule as enables the workmen of the mine to select, for the purpose of inspecting the mine, two persons who are not of their number, but are practical working miners and not mining engineers, and as requires a copy of their report to be sent to the inspector of the district in the case where the report states the existence, or apprehended existence, of any danger.

Rule 39.—This rule was new, but did not apply retrospectively. It prohibits any person employed as a coal or ironstone getter from being allowed to work alone as a coal or ironstone getter in the face of the workings until he has had two years' experience of such work under the supervision of skilled workmen, or unless he has been previously employed for two years in or about the face of the workings of a mine.

Unquestionably the legislation for the regulation and inspection of coal mines was, in its origin, as has already been pointed out, suggested by a tender and humane regard for our fellow human beings who are employed as workers in coal mines, and was mainly acquiesced in and approved of by the owners of coal mines in this spirit. Yet the adoption of legislation of this kind was, in the case of coal mines, on some points, in the interests of employers as well as of workmen. For instance, any precautions to prevent explosions in mines are obviously beneficial to the owners of them as well as to the miners. A serious explosion, while it brings death and pain into many a humble home, at the same time entails a heavy loss, if not, indeed, absolute disaster, upon the owner of the mine. The coal-owner's property is seriously injured, if not altogether wrecked, and its earning capacity is at least suspended, even where it is not altogether destroyed.

Apart from any considerations of self-interest, such as those which have been above suggested, it must be agreed by everyone that employers of labour of all kinds have, on the whole, all loyally accepted the spirit of modern legislation of the above description, and none more readily than coal-owners. But provisions of the kind embodied in the Acts now under consideration unquestionably entail great expense and trouble upon all employers (and not least upon mine-owners), who might naturally, therefore, be disposed to desire the *minimum* of legislative interference which, in their own opinion, is compatible with the safety of those employed

by them. Workmen of all classes, knowing that a worker's sole capital is his life and health, and that he often, as it were, "carries these in his hand" by the very nature of his occupation, would, on the other hand, naturally be disposed to ask the "*maximum*" which it is in the power of their representatives to obtain.

The policy of all legislation, such as that of which the Factory Acts are the type, has accordingly always been to do something more for the workers whom it affects than merely provide such legislative protection as Parliament may consider absolutely necessary. This has accordingly been done under the Factory Acts and the other Acts (including even the Lunacy Acts, and some few other cases in which the officials administering the Act are called "Commissioners"), by the interposition of inspectors to occupy an important judicial and impartial position between masters and men. The appointment of inspectors has accordingly, since 1850, been a prominent feature of the legislation as to coal mines.

It says much for the policy upon which the Coal Mines Regulation Acts are based, and for the success with which, as far as regards coal mines, that policy has been carried out by successive Home Secretaries, and by the inspectors and other departmental officers who have worked under them, that the spirit of such policy has now practically met with acceptance from both sides interested. The departmental experience gained by the Home Office, impartially used, formed the basis for the Bill of 1896, and (though some controverted questions of detail naturally required discussion) that Bill was, as a whole, readily accepted both by coal-owners and by their miners, and its passing eagerly desired and assisted by both alike.

The Act of 1896 which, as just hinted, was passed into law without serious opposition with the Act of 1894, supplements the Act of 1887. The following is a summary of the law as embodied in the three Acts of 1887, 1894 and 1896:—

The three great "Parts" or heads embraced by the Act of 1887 (and supplemented by the Acts of 1894 and 1896) are

Part I., containing general provisions for the safety and well-being of workers in mines; Part II., relating to the rules in force in mines; and Part III., relating to the procedure in enforcing penalties and other legal remedies by which the operation of the Act is enforced. Some detailed remarks on each of these Parts will give a fuller outline of the general effect of the enactments now in force.

Part I., containing general provisions for the safety and well-being of workers in mines, does this in ways which may be described in the following pages under the heads **A, B, C, D, E, F, G, H,** and **I.**

**A.** *Females and Young Persons.*—Special regulations are laid down under this head as to the employment of females and young persons. Two generations ago women were employed in mines almost as mere animals, and beasts of burden, being often employed to draw trucks underground, with the results that have already been mentioned (*ante*, pp. 2, 3). Young children of both sexes were also freely employed in mines, the necessity not being at that time recognized for that education which has since been enforced by the legislature, and has so largely contributed to raise the social and mental level of our people, and to diminish crime. The employment of women underground in mines was, as has already been pointed out, early in the Queen's reign, forbidden by statute, which was the seed of that legislation of which the protective code now in force has been the outcome. The code in the Act of 1887 (s. 4) continued the absolute prohibition of the employment *underground* of females of any age, and of boys under twelve.

Young people, whether girls or boys, can only be employed in a mine subject to the provisions of the Education Acts, 1877 and 1890, and those contained in the code itself. There is a definition of who are "girls" or "boys" for the purposes of the Acts (1887, s. 75). Stringent regulations are laid down as to the extent to which girls or boys may be employed, and as to the time in each day and in each week (1887, ss. 5—9) during which they may work. Registers

are, by the Act of 1887, required to be kept of all "girls" and "boys" employed in a mine. Provision is also made (1887, s. 10) for the payment by the employer of a girl or boy attending a public elementary school, on the request of the teacher, of the school fees by the employer to the latter out of the wages of the employed.

**B.** *Wages.*—This head contains regulations as to the payment of their wages to those employed in a mine. No wages are to be paid in a "public-house" or beer-shop (1887, s. 11). Where the wages paid depend on the actual weight of "the material contracted to be gotten," provision is made for this product to be weighed, subject to lawful deductions, "at a place as near to the pit's mouth as is reasonably practicable," by "check weighers" (1887, s. 12); and there may be several such places (1887, s. 13); all the check weighers are to be appointed by the workers by ballot (1887, s. 14, sub-s. (1)); and are to be paid by the men (1887, s. 14); they are to have all reasonable facilities accorded to them (1887, s. 13, sub-s. (2)); they are not to impede the working of the mine (1896, sub-s. (3)), but are only removeable by a court of summary jurisdiction on the complaint of an owner, agent, or manager, that they have impeded the working of the mine or interfered with the men (*ibid.*, sub-ss. (4)—(6)). By the Act of 1894 (1894, s. 1), interference "by the owner, agent, or manager of any mine, or any person employed by or acting under the instructions of any such owner, agent, or manager," with the appointment of a check weigher, or refusal to afford proper facilities where necessary, or attempts to by any means improperly influence the appointment, or to induce those interested not to re-appoint a check weigher, or to vote for or against any particular person or class of persons, as check weigher, are made offences against the Acts. By permission of the Secretary of State, payment by measure or gauge may be substituted for payment by weight (1887, sub-ss. (7) and (8)), in which case the provisions as to check weighers apply *mutatis mutandis*. The Weights and Measures Acts apply to weights &c., used at

the mine, and are to be examined every six months (1887, s. 15).

**C.** *Single Shafts.*—Mines are not to be worked with a single shaft, detailed regulations as to shafts being contained in the Act of 1887 (ss. 16, 17, and 18).

**D.** *Division of Mine into parts.*—Regulations for the division of parts of a mine which are worked separately, being deemed separate mines, are contained under this head (1887, s. 19).

**E.** *Certificated Manager.*—Under this head provisions are contained in the Act for securing that every mine shall be under the control of a certificated manager (1887, s. 20), who must attend daily (1887, s. 21), and cannot be a contractor for mineral (1887, s. 22). Elaborate directions as to the grant of certificates after examination by a Board of Examiners, as to the constitution of such Board (1887, s. 23), and as to the conduct of such examinations, are contained in the Act (1887, ss. 24, 25, and 26), and also the registration of certificates thereof, and for the cancellation of certificates for unfitness after a public inquiry (1887, ss. 27 and 28), and to secure the genuineness thereof (1887, ss. 29, 32).

**F.** *Returns.*—Periodical returns in the form prescribed by Schedule III. of the Act are required (1887, ss. 32 and 33). Plans of the mine are to be kept at its office (1887, s. 34), which plan is, by the Act of 1896, required to show the position of the workings with regard to the surface and the position, extension, and direction of every known fault or dislocation of the seam, with its vertical throw (1896, s. 3). Notices of every accident are also to be given to the inspector for the district (1887, s. 35). Notices of a similar kind of the opening and abandonment of mines are also required (1887, s. 36), which latter are, by provisions similar to those applying to Metalliferous Mines, required to be fenced (1887, s. 37), and plans of which are required to be furnished to the Secretary of State. The Act of 1896 repeals sub-s. 1 in the corresponding section of the Act of 1887 (1887, s. 38), and in its place substitutes a new section containing very elaborate requirements as to the details of such plans (1896, s. 4).

**G.** *Inspection.*—Inspection of mines is secured in the Act of 1887 by a series of sections under this head (1887, ss. 39—44).

The appointment, payment, and removal of inspectors under the Act by the Secretary of State is authorized, with a direction that in Wales and Monmouthshire, among equally qualified candidates, those speaking Welsh shall be preferred (1887, s. 39), and that they shall be assigned to districts (*ibid.*, sub-s. (3)), a list of which will be furnished by the Home Office on application. Certain persons are disqualified (1887, s. 40). The powers of inspectors are defined (1887, ss. 41, 42), and they are required to make an annual report to the Secretary of State to be laid before Parliament, and, on their making a special report as to a mine accident, the Secretary of State may direct a formal investigation into it in the manner directed (1887, ss. 44, 45, 46).

**H.** *Arbitrations.*—Under this head provision is made in the Act of 1877 for arbitrations in which the owner, manager, or agent of the mine is the party on one side, and the Home Office on the other, and as to the procedure on such arbitrations (1887, s. 47). It is further provided by the Act of 1896, where any matter in difference is referred to arbitration a majority of the workmen employed in the mine to which the arbitration relates, on giving security such as may appear to the arbitrator or umpire sufficient to provide for costs, may appoint a person to represent them at the arbitration, and the person so appointed shall be entitled to attend and take part in the arbitration to the extent and in the way directed by the arbitrators or umpire, and with the same liability as to costs as if he were a party (1896, s. 2).

**I.** *Coroners' Inquests.*—Under this head, by the original Act of 1887, coroners' inquests are utilized for the purposes of the Acts. For details of the manner in which this is done, reference must be made to the Act itself (1887, s. 48).

Part II. of the legal code contained in the Coal Mines Acts, 1887—96, relates, it has already been pointed out (*supra*, p. 15), to the rules which are to be in force in mines

(1887, s. 49); such rules are in each mine general and special. The Act lays down certain general rules which are to be in force in all mines "so far as reasonably practicable," that is, so far as physical or engineering difficulties permit (*Wales* v. *Thomas* (1885), 16 Q. B. D. 340). These general rules all relate to matters of a technical nature. They provide as to ventilation (1887, s. 49, rr. 2, 3), and as to the inspection of ventilation before work is commenced by each shift (*ibid.* r. 4), and during each shift (*ibid.*). By the Act of 1896 (1896, s. 5, sub-s. (1)), this inspection must extend to all working places in which work is temporarily stopped within any ventilating district in which the men have to work. Provision is also made for the inspection of machinery (1887, r. 5); fencing of entrances to places not actually used (*ibid.* r. 6); withdrawal of the workmen from the mine in case of danger (*ibid.* r. 7); the use of safety lamps (*ibid.* r. 8), their construction (*ibid.* r. 9), and examination (*ibid.* r. 10), and lamp stations (*ibid.* r. 11). The Act of 1896 (1896, s. 5) adds to the requirement as to safety lamps, a requirement (1896, s. 5, sub-s. (2)) that no safety lamp shall be used in a mine unless it is provided by the owner, and that no portion of any safety lamp shall be removed from the mine by any person while the lamp is in ordinary use. The use of explosive substances in mines is also regulated (1887, r. 12). By the Act of 1896 (1896, s. 5, sub-s. 3), the general rule on this subject is altered into one by which it is provided that "only clay or non-inflammable substances shall be used for stemming, and shall be provided by the owner of the mine," and by the following section of the Act (1896, s. 6) a Secretary of State is empowered to prohibit the use of it in any mine, or any class of mines, either absolutely or subject to conditions, on being satisfied that any explosive is or is likely to become dangerous. Water and bore-holes are also made requisite in certain spots (1887, r. 13). The provision in every underground place of signalling holes and man-holes in travelling places is also required (*ibid.* r. 14), and on other

travelling roads (1887, r. 15), as is also keeping them clear (*ibid.* r. 16), and it is laid down of what size they shall be (*ibid.* r. 17). Provisions are also made requiring the fencing of old shafts (*ibid.* r. 18), fencing entrances to shafts (*ibid.* r. 19), securing shafts (*ibid.* r. 20), their roofs and sides (*ibid.* r. 21), and timbering shafts (*ibid.* r. 22), securing persons the right to use the downcast shaft in mines, having both a furnace and a downcast shaft (*ibid.* r. 23); and as to the attendance of enginemen (*ibid.* r. 24), the provision of proper modes of signalling in shafts in use is also required (*ibid.* r. 25); and it is directed that unless fitted with automatic arrangements to prevent over-winding, cages containing men shall not be wound up at a speed exceeding three miles an hour after reaching a point in the shaft to be fixed by special rules (*ibid.* r. 26); that cages lowering or raising persons shall have overhead covers (*ibid.* r. 27); that single-linked chains shall not be used for lowering or raising persons (*ibid.* r. 28); that there shall be flanges on the drum of the engine of every machine raising or lowering persons (*ibid.* r. 29), and also adequate brakes and indicators (*ibid.* r. 30); that fly-wheels and exposed machinery shall be fenced (*ibid.* r. 31); that boilers shall have safety-valves and gauges (*ibid.* r. 32); that a barometer and thermometer shall be provided (*ibid.* r. 33); that stretchers, splints, and bandages shall be kept at every mine (*ibid.* r. 34); that no one shall commit wilful damage (*ibid.* r. 35); that everyone shall observe directions (*ibid.* r. 36); that the books mentioned in the rules shall be provided, and copies kept at the mine. It is also provided that the books mentioned in the general rules may be partly in print or lithographed and partly in writing (*ibid.* r. 37); that those employed in a mine may at least once a month send two practical miners to inspect the mine at their own cost, and that such persons shall be accompanied, if he think fit, by the owner, &c., and should report (*ibid.* r. 39); and that no one shall be allowed to work alone till he has had two years' experience (*ibid.* r. 39). The Act

(1887, s. 50) also imposes penalties for non-compliance with the above general rules.

Special rules are authorized to be established in every mine, such "as under the particular state and circumstances of such mine may appear best calculated to prevent dangerous accidents and to provide for the safety, convenience, and proper discipline of the persons employed in or about the mine" (1887, s. 51, sub-s. (1)). Such special rules, when established, are to be signed in duplicate by the inspector of the district and henceforth observed in the mine (*ibid.* sub-s. (2)) under the usual penalties (*ibid.* sub-s. (3)). Special rules are established by being, within three months of the commencement of any working to open a new mine, or to re-open an old one, transmitted to the inspector for the district for approval by the Secretary of State (1887, s. 52, sub-s. (1)), together with a copy of such notice, and a printed notice posted up that those employed in the mine may object to them to the Secretary of State (*ibid.* sub-s. (2)), and, if not objected to by the Secretary of State within forty days after transmission, such rules become established (*ibid.* sub-s. (3)). The Secretary of State may, however, propose modifications in writing (1887, s. 53, sub-s. (1)), which, if not objected to by the owner, &c. within twenty days after receipt, become established with the proposed special rules (*ibid.* sub-s. (2)), or may, if objected to, become the subject of arbitration (*ibid.* sub-s. (3)). Special rules may be amended by a similar procedure (1887, s. 54).

The Act of 1896 provides that the power to propose, amend and modify special rules shall include powers with respect to (a) the nature, description, custody, and use and trimming of lights or lamps used in the mine; (b) the description of explosives used in the mine, their use and storing, the making and stemming holes, and as to the times and manner of firing shots in the mine; (c) the persons to be permitted to remain in the mine whilst shots are being fired; (d) the watering or efficient damping of the mine, &c.; and (e) generally the

precautions to be adopted for the prevention of accidents from inflammable gas and coal dust (1896, s. 1, sub-s. (1)). Any general rules, and also any special rule established under the Act of 1887, is, while any special rules made under s. 1, sub-s. (1), of the Act of 1896 are in force in any mine, suspended in relation to that mine if and so far as inconsistent with the new special rules (1896, s. 1, sub-s. (2)).

False statements as to special rules, or neglect to transmit them to the inspector for the Secretary of State's approval, are offences against the Act (1887, s. 55), and a copy of special rules certified by the inspector for the district is made evidence (1887, s. 56). The publication of an abstract of the Act (with, of course, the general rules contained in it) and of a correct copy of any special rules which have been made under it, is provided for by requiring (1887, s. 57) that copies of these be posted up "in some conspicuous place at or near the mine," renewed whenever they become defaced, &c. (*ibid.*, sub-s. (1)), and supplied gratis at the office of the mine to every person employed at such mine upon his making application for the same (*ibid.* sub-s. (2)), and kept distinct from any rules which only depend on contract (*ibid.* sub-s. (3)).

Pulling down or defacing notices, &c. given in pursuance of the Act is made an offence against it (1887, s. 58).

Part III. of the Act relates to penalties, procedure, &c., under it, and certain miscellaneous matters. Offences against the Act are defined (1887, s. 59, sub-s. (1)), and made punishable, if committed by an "owner, agent, or manager," by a penalty of 20*l.*, or if by any other person of 2*l.*, with, in either case, a further fine of 1*l.* per day during the continuance of the offence if the inspector for the district has given written notice of its existence (*ibid.* sub-s. (2)). Wilful neglect endangering life or limb is, if the Court thinks a fine will not meet the case, made subject to imprisonment not exceeding three months (1887, s. 61). Offences against the Act not thereby declared to be misdemeanours, and all fines under it, may be prosecuted for before a Court of Summary Jurisdiction (1887, s. 61). General provisions being given for the

procedure before such Court (1887, s. 62), and an appeal to Quarter Sessions provided (1887, s. 63). False representation as to the age of a boy or girl, or as to a person having had two years' experience, acted on by an owner, &c., in good faith, exempts him from punishment; and the parent or guardian of the child whose age is misrepresented, and the person falsely said to have previously worked alone, is made guilty of an offence against the Act (1887, s. 64). A prosecution against an owner, agent, or manager, for an offence not personally committed by him, can only be instituted by an inspector, or with the written leave of a Secretary of State, which is, in any case, required for a prosecution against a coroner (1887, s. 65). Owners, agents, or managers prosecuting workmen must report the result to the inspector of the district within twenty-one days from the hearing (1887, s. 66). Procedure in Scotland is specially provided for (1887, s. 67). Proceedings under other Acts are not taken away, provided no one be punished twice (1887, s. 68, sub-s. (1)), and, if proceeded against under this Act, may be adjourned to allow proceedings under the other Act (*ibid.* sub-s. (2)). Relations of interested parties, and directors of companies owning mines, are disqualified from acting as justices on proceedings under the Act (1887. s. 69). Fines may be distributed, by order of a Secretary of State, among the persons injured or their relatives, subject to certain restrictions (1887, s. 70). The miscellaneous provisions of the Act of 1887 empower a Secretary of State to determine (otherwise than on legal proceedings) what is a mine within the Act (1887, s. 71), and enable him to make or revoke orders and exemptions (1887, s. 73). Local authorities are, under certain circumstances, empowered to apply to the portions of a mine which are above ground the provisions of the Public Health Act, 1875, as to supplying privies in collieries where both sexes are employed (1887, s. 74). They also embrace an interpretation clause (1887, s. 75), and provisions for the application of the Act to Scotland (1887, s. 76), and to Ireland (1887, s. 77).

The Act of 1887 concludes with certain transitory provisions which at this date need not be further noticed (1887, ss. 78—82); provides that references in other Acts to Act repealed, shall be taken to refer to the corresponding provisions of this Act (1887, s. 83); and (as previously mentioned, *ante*, p. 5) repeals the former Acts for the regulation of coal mines (1887, s. 84).

The principal changes in the law effected by the Act of 1896 appear to be five in number. First, the power of the Secretary of State to propose special rules for particular mines is made to include power to do so as to lights, explosives, the persons who may remain in the mine while shots are being fired, the watering or efficient damping of the mine, and general precautions for the "prevention of accidents from inflammable gas and coal dust." Secondly, provision is made for the representation of workmen employed in the mine upon any arbitration held as to it. Thirdly, the plan of every mine, in working which the Act of 1887 required to be kept, is now required to show certain additional details; and the plan of every abandoned mine furnished under the Acts must show even greater details. Fourthly, safety lamps used in a mine are required to be "provided" by its owner, and it is required that "only clay and other non-inflammable substances shall be used for stemming, and shall be provided by the owner of the mine." Fifthly and lastly, the Secretary of State may altogether prevent the use of any explosive which he is satisfied is dangerous, or direct that it shall only be used under certain restrictions.

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# THE COAL MINES REGULATION ACT, 1887(*a*).

## [50 & 51 Vict. c. 58.]

*An Act to consolidate with amendments the Coal Mines Acts*, 1872 *and* 1886, *and the Stratified Ironstone Mines* (*Gunpowder*) *Act*, 1881.

[16th September 1887.]

WHEREAS it is expedient to repeal and re-enact with amendments the Coal Mines Acts, 1872 and 1886, and the Stratified Ironstone Mines (Gunpowder) Act, 1881: 35 & 36 Vict. c. 76. 49 & 50 Vict. c. 40. 44 & 45 Vict. c. 26.

Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*Preliminary.*

**1.** This Act may be cited as the Coal Mines Regulation Act, 1887. Short title.

**2.** This Act shall not come into operation until the first day of January one thousand eight hundred and eighty-eight, which date is in this Act referred to as the commencement of this Act. Commencement of Act.

**3.** This Act shall apply to mines of coal, mines of stratified ironstone, mines of shale, and mines of fireclay (*b*); and in this Act, unless the context otherwise requires, the word "mine" (*c*) means a mine to which this Act applies. Application of Act.

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(*a*) For a summary of the changes in the previous law made by this Act, see Introduction, pp. 6—13.

(*b*) Other mines are dealt with by the Metalliferous Mines Regulation Act, 1872 (35 & 36 Vict. c. 77).

(*c*) By sect. 71, If any question arises (otherwise than in legal proceedings) whether a mine is a mine to which this Act or the

## PART I.

*Employment of Boys, Girls, and Women.*

Employment below ground of boys under twelve and of girls and women prohibited.

**4.** No boy (*c*) under the age of twelve years, and no girl (*d*) or woman (*e*) of any age, shall be employed in or allowed to be for the purpose of employment in any mine below ground.

Hours of employment of boys over twelve below ground.

**5.** A boy (*f*) of or above the age of twelve years shall not be employed in or allowed to be for the purpose of employment in any mine below ground for more than fifty-four hours in any one week, nor more than ten hours in any one day, nor otherwise than in accordance with the regulations herein-after contained with respect to the employment of boys in a mine below ground.

Regulations as to employment of boys below ground.

**6.** With respect to the employment of boys in a mine below ground, the following regulations shall have effect: that is to say,

(1.) There shall be allowed an interval of not less than eight hours between the period of employment on Friday and the period of employment on the following Saturday, and in other cases of not less than twelve hours between each period of employment:

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Metalliferous Mines Act, 1872, or any other Act for the time being in force and relating to Metalliferous Mines applies, the question shall be referred to a Secretary of State, whose decision thereon shall be final.

By sect. 75, "Mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways and sidings, both below ground and above ground, in and adjacent to and belonging to the mine.

By sect. 19, where two or more parts of a mine are worked separately, the owner, agent or manager of the mine may give notice in writing to that effect to the inspector of the district, and thereupon each such part shall, for all the purposes of this Act, be deemed to be a separate mine.

(*c*) "Boy" means a male under the age of sixteen years. (Sect. 75.)

(*d*) "Girl" means a female under the age of sixteen years. (*Ib.*)

(*e*) "Woman" means a female of the age of sixteen years or upwards. (*Ib.*)

(*f*) Under sixteen. (*Ib.*)

(2.) The period of each employment shall be deemed to begin at the time of leaving the surface, and to end at the time of returning to the surface:

(3.) A week shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night.

Employment of boys, girls, and women above ground.

**7.** With respect to boys, girls, and women employed above ground, in connection with any mine, the following provisions shall have effect:

(1.) No boy or girl under the age of twelve years shall be so employed:

(2.) No boy or girl under the age of thirteen years shall be so employed—

(a) for more than six days in any one week; or

(b) if employed for more than three days in any one week, for more than six hours in any one day; or

(c) in any other case for more than ten hours in any one day:

(3.) No boy or girl of or above the age of thirteen years and no woman shall be so employed for more than fifty-four hours in any one week or more than ten hours in any one day:

(4.) No boy, girl, or woman shall be so employed between the hours of nine at night and five on the following morning, nor on Sunday, nor after two o'clock on Saturday afternoon:

(5.) There shall be allowed an interval of not less than eight hours between the termination of employment on Friday and the commencement of employment on the following Saturday, and in other cases of not less than twelve hours between the termination of employment on one day, and the commencement of the next employment:

(6.) A week shall be deemed to begin at midnight on Saturday night and to end at midnight on the succeeding Saturday night:

(7.) No boy, girl, or woman shall be employed continuously for more than five hours, without an interval of at least half an hour for a meal, nor for more than eight hours on any one day, without an interval or intervals for meals

amounting altogether to not less than one hour and a half:

(8.) No boy, girl, or woman shall be employed in moving railway waggons.

The provisions of this section as to the employment of boys, girls, and women after two o'clock on Saturday afternoon, shall not apply in the case of any mine in Ireland, so long as it is exempted by order of a Secretary of State (*h*).

Register to be kept of boys, girls, and women employed.

**8.**—(1.) The owner agent or manager of every mine shall keep in the office at the mine a register, and shall cause to be entered in that register, in such form as the Secretary of State may from time to time prescribe or sanction, the name, age, residence, and date of first employment of all boys employed in the mine below ground, and of all boys, girls, and women employed above ground in connexion with the mine; and shall on request, produce the register to any inspector under this Act, and to any officer of a school board or school attendance committee in the district in which the mine is situate, at the mine at all reasonable times, and shall allow any such inspector or officer to inspect and copy the same.

(2.) The immediate employer of every boy, other than the owner agent or manager of the mine, before he causes the boy to be below ground in any mine, shall report to the manager of the mine or to some person appointed by that manager, that he is about to employ the boy in the mine.

Penalty for

**9.** If any person contravenes or fails to comply with, or

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(*h*) By sect. 72, Any order or exemption granted by a Secretary of State under this Act may be made, and from time to time revoked or altered by a Secretary of State, either unconditionally or subject to such conditions as he may see fit, and shall be signed by a Secretary of State or under-secretary or assistant under-secretary.

Orders of exemption made before the passing of this Act are specially preserved and kept in force by sects. 79 and 84, unless they are revoked or altered by a Secretary of State under the provisions of sect. 72, which, by sect. 79, is made applicable to exemptions granted under statutes repealed by this Act. (*Dickinson* v. *Handsley*, March 6, 1889; 60 L. T. 567; 53 J. P. 676.)

permits (*i*) any person to contravene or fail to comply with, any provision of this Act with respect to the employment of boys, girls (*k*), or women, or to the register of boys girls and women, or to reporting the intended employment of boys, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner agent and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the provisions of this Act, to prevent the contravention or non-compliance.

Employment of persons in contravention of Act.

**10.**—(1.) After a request in writing by the principal teacher of a public elementary school (*l*) which is attended by any boy or girl employed in or in connexion with a mine, the person who pays the wages of the boy or girl shall as long as he employs the boy or girl pay to the principal teacher of that school, for every week that the boy or girl attends the school, the weekly sum specified in the application, not exceeding twopence per week, and not exceeding one-twelfth part of the wages of the boy or girl, and may

Payment of school fees out of wages.

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(*i*) Under 5 & 6 Vict. c. 99, ss. 8 and 13, which was an Act to prohibit the employment of women and girls in collieries, to regulate the employment of boys, and to make other provisions relating to persons working therein, it was held, that to make a contractor for working a mine liable to a conviction for allowing females to have charge of the machinery or tackle by means of which persons are brought up or passed down a vertical shaft of a mine, contrary to the provisions of the said Act, knowledge of or acquiescence in their being so employed must be brought home to him. (*Reg.* v. *Handley*, Jan. 27, 1864; 9 L. T. 827.)

(*k*) By sect. 64, if it appears that a boy or girl was employed on the representation of his or her parent or guardian that he or she was of the age at which his or her employment would not be in contravention of this Act, and under the belief in good faith that he or she was of that age, the owner, agent, or manager of the mine and employer shall be exempted from any penalty, and the parent or guardian shall, for the misrepresentation, be deemed guilty of an offence against the Act.

(*l*) See sect. 7 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), for definition of "public elementary school." By the same section, it is provided that it shall be the duty of the inspectors and sub-inspectors acting under the Acts regulating mines to enforce the observance by the employers of children in such mines, of the provisions of that Act respecting the employment of children.

In the application of this Act to Scotland, by sect. 76, subsect. 11, "public elementary school" means State-aided school.

deduct the sum so paid by him from the wages payable for the services of the boy or girl (*m*).

(2.) If any person after such application refuses to pay on demand any sum that becomes due as aforesaid, he shall be liable to a penalty not exceeding ten shillings (*n*).

*Wages.*

Prohibition of payment of wages at public houses, &c.

**11.**—(1.) No wages shall be paid to any person employed in or about any mine at or within any public house, beer shop, or place for the sale of any spirits beer wine cyder or other spirituous or fermented liquor, or other house of entertainment, or any office garden or place belonging or contiguous thereto, or occupied therewith.

(2.) Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with this section shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner agent and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent the contravention or non-compliance (*o*).

Payment of persons employed in mines by weight.

**12.**—(1.) Where the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, those persons shall be paid according to the actual weight gotten by them of the mineral contracted to be gotten (*p*), and the mineral gotten by them

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(*m*) These deductions are authorized by sect. 9 of the Truck Act, 1831 (1 & 2 Will. 4, c. 37), and by sect. 9 of the Truck Amendment Act, 1887 (50 & 51 Vict. c. 46), it is provided that where deductions are made, the accounts of such deductions shall be audited at least once in every year. These enactments are set out *post*, in Appendix I.

(*n*) By the Elementary Education Act, 1891 (54 & 55 Vict. c. 56), school fees are generally abolished.

See the provisions of the Elementary Education Acts, 1876 (39 & 40 Vict. c. 79) and 1880 (43 & 44 Vict. c. 23).

(*o*) Compare the Payment of Wages in Public Houses Prohibition Act, 1883 (46 & 47 Vict. c. 31).

(*p*) The much-vexed subject of check weighers is discussed, and a summary of the cases decided with regard to it is given, in Appendix VII. Under sect. 17 of the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), it was held by the House of Lords that the weight of "*slack*" could not be deducted for the mineral contracted to be gotten was coal including slack, and slack was not "material

shall be truly weighed at a place as near to the pit mouth as is reasonably practicable.

Provided that nothing in this section shall preclude the owner agent or manager of the mine from agreeing with the persons employed in the mine that deductions (*q*) shall

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other than mineral contracted to be gotten," and was therefore not one of the deductions allowed by that section. (*The Netherseal Colliery Co., Ltd.* v. *Bourne and Others*, June 3, 1889; 14 App. Cas. 228; 59 L. J. 66; 61 L. T. 125; 54 J. P. 84.)

The judgment in the Scotch case of *Hynd* v. *Spowart* (Nov. 5, 1884; 22 Sc. L. R. 702), which decided that a contract between miners and their employer, that the miners should be paid by the amount of "round coal" gotten by them, as weighed at the pit head after passing the contents of their hutches over a screen which separated dross from coal, was valid under sect. 17 of the Coal Mines Regulation Act, 1872, was disapproved by the Court of Appeal in *The Netherseal Colliery Co.* v. *Bourne*, March 1, 1888; 20 Q. B. D. 606.

There is no difference in the construction of the language of sect. 17 of the Coal Mines Regulation Act, 1872, "weight of the mineral gotten," and of sect. 12, sub-sect. (1) in the Act of 1887, "weight gotten of the minerals to be gotten." Accordingly following the judgment of the House of Lords in *Netherseal Colliery Co.* v. *Bourne*, the Court of Appeal held, where miners were employed to cut large coal at wages which depended on the weight gotten, and during the conveyance of the coal to the pit's mouth, where it was screened and weighed, some small coal was produced, that deductions from the miner's wages in respect of the small coal were illegal, inasmuch as, being produced by attrition from it, the small coal was a part of the mineral contracted to be gotten within sub-sect. (1), and that the miners were entitled to be paid for the small coal at the same rate as that paid for the large coal. (*Brace* v. *Abercarne Colliery Co.*, *Huggins* v. *South Wales Colliery Co.*, Jan. 30, 1891; C. A. [1891] 2 Q. B. 699; 60 L. J. Q. B. 706; 65 L. T. 694; 56 J. P. 20. See also *Kearney* v. *Whitehaven Colliery Co.* [1893] in Appendix VII., at p. 172; and *infra*).

(*q*) Any agreement for a deduction which may amount to the whole of the wages payable for the actual weight gotten of the mineral contracted to be gotten is illegal.

A miner was employed at a colliery upon the terms that he should be paid wages according to the weight of coal gotten by him; that he should not leave his employment without giving fourteen days' notice, and that deductions should be made in respect of dirt sent up to the surface with the coal; and the following mode of determining these deductions was agreed upon; about one tub in twenty sent up to the surface was selected at random for testing. The dirt in that tub was separated from the coal and weighed, and if the tub contained more than a certain weight of dirt, the miner sending it up was not paid anything in respect of the coal therein. It was decided by the Court of Appeal, affirming the decision of the Queen's Bench Division, that this agreement for deductions was illegal, because, in certain events, the miner

be made in respect of stones or substances other than the mineral contracted to be gotten, which shall be sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs baskets or hutches being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him; such deductions being determined in such special mode as may be agreed upon between the owner agent or manager of the mine on the one hand, and the persons employed in the mine on the other, or by some person appointed in that behalf by the owner agent or manager, or (if any check weigher is stationed for this purpose as hereinafter mentioned), by such person and such check weigher, or in case of difference by a third person to be mutually agreed on by the owner agent or manager of the mine on the one hand, and the persons employed in the mine on the other, or in default of agreement appointed by a chairman of a Court of quarter sessions within the jurisdiction of which any shaft of the mine is situate.

(2.) If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section, he shall be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner agent and manager (*r*) of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent the contravention or non-compliance.

(3.) Where it is proved to the satisfaction of a Secretary of State, in the case of any mine or class of mines employing not more than thirty persons underground, to be expedient that the persons employed therein should, upon the joint

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was not to be paid at all in respect of coal in a tub; they held also, that the stipulation as to notice was separable from the illegal stipulation, and was supported by a good consideration, and was, therefore, binding. (*Kearney* v. *Whitehaven Colliery Co.*, April 19, 1893; [1893] 1 Q. B. 700; 62 L. J. M. C. 129; 68 L. T. 690; 57 J. P. 645; 41 W. R. 594.) As previously stated, the whole subject-matter of this section is discussed in Appendix VII., where the Scotch cases of *Mowatt* v. *Ronaldson*, July 17, 1893; 31 Sc. L. R. 896; and *Hastie* v. *Atkinson*, July 13, 1894; 31 Sc. L. R. 892, are discussed.

(*r*) See sects. 50 and 59, and notes thereto.

representation of the owner or owners of any such mine or class of mines and the said persons, be paid by any method other than that provided by this Act, such Secretary of State may, if he think fit, by order (*s*) allow the same either without conditions or during the time and on the conditions specified in the order.

Appointment on part of men, and removal, of check weigher.

**13.**—(1.) The persons who are employed in a mine, and are paid according to the weight of the mineral gotten by them, may, at their own cost, station a person (*t*) (in this Act referred to as "a check weigher") at each place appointed for the weighing of the mineral, and at each place appointed for determining the deductions in order that he may on behalf of the persons by whom he is so stationed take a correct account of the weight of the mineral or determine correctly the deductions as the case may be.

(2.) A check weigher shall have every facility afforded to him for enabling him to fulfil the duties for which he is stationed, including facilities for examining and testing the weighing machine, and checking the tareing of tubs and trams where necessary; and if at any mine proper facilities are not afforded to a check weigher as required by this section, the owner agent and manager of the mine

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(*s*) See sects. 72, 79, and 84.

(*t*) Under the Mines Regulation Act, 1872, it was necessary that the person appointed should be one of the persons employed, either at the mine at which he was stationed as check weigher, or in another mine belonging to the owner of that mine (*Hopkinson* v. *Caunt*, Mar. 13, 1885; L. R. 14 Q. B. D. 592; 54 L. J. Q. B. 284; 32 W. R. 522); but under this section there is no such limitation to the selection of the person who may be appointed check weigher.

A miner appointed by his fellow-workmen in a coal mine to be a check weigher under the provisions of sect. 18 of the Coal Mines Regulation Act, 1872, ceases, upon the mine-owners dismissing all their miners and closing the mine, to be any longer such check weigher, notwithstanding that he has not been dismissed by his employers, the miners, or removed by the mine-owners in the way pointed out by the section; and although the mine be immediately afterwards re-opened and the old body of miners re-engaged to work therein, he is not thereby entitled to resume his office as check weigher, nor has he any right of action against the mine-owners for preventing him from working. (*Whitehead* v. *Houldsworth and another*, Mar. 8, 1878; L. R. 4 Ex. Div. 13; 48 L. J. Ex. 254; 39 L. T. 638; 27 W. R. 94.)

shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means to enforce to the best of his power the requirements of this section.

(3.) A check weigher shall not be authorized in any way to impede or interrupt the working of the mine, or to interfere with the weighing, or with any of the workmen or with the management of the mine; but shall be authorized only to take such account or determine such deductions as aforesaid, and the absence of a check weigher from the place at which he is stationed shall not be a reason for interrupting or delaying the weighing or the determination of deductions at such place respectively, but the same shall be done or made by the person appointed in that behalf by the owner agent or manager, unless the absent check weigher had reasonable ground to suppose that the weighing or the determination of the deductions, as the case may be, would not be proceeded with: Provided always, that nothing in this section shall prevent a check weigher giving to any workman an account of the mineral gotten by him, or information with respect to the weighing, or the weighing machine, or the tareing of the tubs or trams, or with respect to the deductions or any other matter within the scope of his duties as check weigher, so always, nevertheless, that the working of the mine be not interrupted or impeded.

(4.) If the owner agent or manager of the mine desires the removal of a check weigher on the ground that the check weigher has impeded or interrupted the working of the mine, or interfered with the weighing (*u*), or with any

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(*u*) Sect. 18 of the Mines Regulation Act of 1872 contains the words "or has otherwise misconducted himself," which are omitted in this section, and for which are substituted in sub-sect. (4) the words "or with any of the workmen, or with the management of the mine, or has at the mine, to the detriment of the owner, agent, or manager, done anything beyond taking such account determining such deductions or giving such information as aforesaid." A check weigher appointed under the former section had been convicted and imprisoned for intimidating a workman. The agent of the mine-owners applied to justices for a summary order for the check weigher's removal, and the justices, having found as a fact that the intimidation took place on the mine-owner's premises where the check weigher had no right to be, except in his capacity as check weigher, made the order for his removal, although it did

of the workmen, or with the management of the mine, or has at the time to the detriment of the owner agent or manager done anything beyond taking such account determining such deductions or giving such information as aforesaid, he may complain to a court of summary jurisdiction, who, if of opinion that the owner agent or manager shows sufficient *primâ facie* ground for the removal of the check weigher, shall call on the check weigher to show cause against his removal.

(5.) On the hearing of the case the Court shall hear the parties, and, if they think that at the hearing sufficient ground is shown by the owner agent or manager to justify the removal of the check weigher, shall make a summary order (*x*) for his removal, and the check weigher shall thereupon be removed, but without prejudice to the stationing of another check weigher in his place.

(6.) The Court may in every case make such order as to the costs of the proceedings as the Court may think just.

(7.) If in pursuance of any order of exemption made by a Secretary of State, the persons employed in a mine are paid by the measure or gauge of the material gotten by them, the provisions of this Act shall apply in like manner as if the term "weighing" included measuring and gauging, and the terms relating to weighing shall be construed accordingly (*y*).

(8.) If the person appointed by the owner (*z*), agent, or

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not appear that this intimidation caused any impediment to or interruption of the working of the mine, and the Court decided, upon a case stated, that the check weigher had misconducted himself within the meaning of the section, and that the justices were right in making the order. (*Prentice* v. *Hall*, Dec. 19, 1877; 37 L. J. Q. B. 605; 26 W. R. 237.)

(*x*) As to orders for removal, see sect. 61, sub-sect. (2), by which proceedings for the removal of a check weigher are to be deemed to be a matter on which a court of summary jurisdiction has authority by law to make an order in pursuance of the Summary Jurisdiction Acts; and summary orders under this Act may be made on complaint before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

(*y*) See sect. 12, sub-sect. (3).

(*z*) As to interference by owner, agent or manager with appointment of check weigher, or refusal to afford proper facilities for holding any meeting, or attempts by threats, bribes, promises, notices of dismissal, or otherwise to exercise improper influence as to appointment of check weigher, see Coal Mines (Check Weigher) Act, 1894 (57 & 58 Vict. c. 52), *post*, p. 103.

manager to weigh the mineral impedes or interrupts the check weigher in the proper discharge of his duties, or improperly interferes with or alters the weighing machine or the tare in order to prevent a correct account being taken of the weighing and tareing, he shall be guilty of an offence against this Act.

Remuneration of check weigher.

**14.**—(1.) Where a check weigher has been appointed by the majority, ascertained by ballot, of the persons employed in a mine who are paid according to the weight of the mineral gotten by them, and has acted as such, he may recover from any person for the time being employed at such mine and so paid, his proportion of the check weigher's wages or recompense, notwithstanding that any of the persons by whom the check weigher was appointed may have left the mine or others have entered the same since the check weigher's appointment, any rule of law or equity to the contrary notwithstanding.

(2.) It shall be lawful for the owner or manager of any mine, where the majority of the before-mentioned persons, ascertained as aforesaid, so agree, to retain the agreed contribution of the persons so employed and paid as aforesaid for the check weigher, notwithstanding the provisions of the Acts relating to truck (*a*), and to pay and account for the same to the check weigher.

Application of 41 & 42 Vict. c. 49, to weights, &c. used in mines.

**15.**—(1.) The Weights and Measures Act, 1878 (*b*), shall apply to all weights, balances, scales, steelyards, and weighing machines used at any mine for determining the wages payable to any person employed in the mine according to the weight of the mineral gotten by him, in like manner as it applies to weights, balances, scales, steelyards, and weighing machines used for trade.

(2.) An inspector of weights and measures appointed under the said Act shall once at least in every six months inspect and examine in manner directed by the said Act the weights, balances, scales, steelyards, and weighing machines used or in the possession of any person for use as aforesaid at any mine within his district; and shall also make such inspection and examination at any other time

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(*a*) The Truck Act, 1831 (1 & 2 Will. 4, c. 37); the Truck Amendment Act, 1887 (50 & 51 Vict. c. 46); and the Truck Act, 1896 (59 & 60 Vict. c. 44), set out in Appendix VI.

(*b*) 41 & 42 Vict. c. 49.

in any case where he has reasonable cause to believe that there is in use at the mine any false or unjust weight, balance, scale, steelyard, or weighing machine.

(3.) The inspector shall also inspect and examine the measures and gauges in use at the mines within his district; but nothing in this section shall prevent or interfere with the use of the measures or gauges ordinarily used at the mine.

(4.) An inspector may, for the purposes of this section, without any authorization from a justice of the peace, exercise at or in any mine, as respects all weights, measures, scales, balances, steelyards, and weighing machines used or in the possession of any person for use at or in that mine, all such powers as he could exercise, if authorized in writing by a justice of the peace, under section forty-eight of the Weights and Measures Act, 1878, with respect to any such weights, measures, scales, balances, steelyards, and weighing machines as therein mentioned; and all the provisions of that section, including the liability to penalties, shall apply to such inspection.

(5.) The inspector of weights and measures shall not, in fulfilling the duties required of him under this section, impede or obstruct the working of the mine.

*Single Shafts.*

Prohibition of single shafts.

**16.**—(1.) After the commencement of this Act the owner agent or manager of a mine shall not employ any person in the mine, or permit any person to be in the mine for the purpose of employment therein, unless the following conditions respecting shafts or outlets are complied with, that is to say,—

(a) There must be at least two shafts or outlets, with which every seam for the time being at work in the mine shall have a communication, so that such shafts or outlets shall afford separate means of ingress and egress available to the persons employed in every such seam, whether the shafts or outlets belong to the same mine or to more than one mine (*c*):

(*c*) As to exceptions from provisions as to single shafts, see sect. 18, *post*.

(b) Such shafts or outlets must not at any point be nearer to one another than fifteen yards; and there shall be between such two shafts or outlets a communication not less than four feet wide and three feet high, and in the case of communications made after the commencement of this Act between shafts or outlets, not less than four feet high:

(c) Proper apparatus for raising and lowering persons at each such shaft or outlet shall be kept on the works belonging to the mine; and such apparatus if not in actual use at the shafts or outlets, shall be constantly available for use.

(2.) Every owner agent and manager of a mine who acts in contravention of or fails to comply with this section shall be guilty of an offence against this Act (*d*).

(3.) Any of her Majesty's superior courts, whether any other proceedings have or have not been taken, may, on the application of the Attorney-General, prohibit by injunction the working of any mine in which any person is employed, or is permitted to be for the purpose of employment, in contravention of this section, and may award such costs in the matter of the injunction as the Court thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Act.

(4.) Written notice of the intention to apply for such injunction in respect of any mine shall be given to the owner agent or manager of the mine not less than ten days before the application is made.

Agreements not to preclude compliance with Act.

**17.** No person shall be precluded by any agreement from doing such acts as may be necessary for providing a second shaft or outlet to a mine, where the same is required by this Act, or be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this Act with respect to shafts or outlets.

Exceptions from provisions as to shafts.

**18.** The foregoing provisions of this Act with respect to shafts or outlets shall not apply—

(i.) In the case of a new mine being opened—

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(*d*) See sects. 50, 59, and 60, and notes thereto.

(a) to any working for the purpose of making a communication between two or more shafts; or

(b) to any working for the purpose of searching for or proving minerals;

so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connexion with a single shaft or outlet: nor

(ii.) To any proved mine so long as it is exempted by order of a Secretary of State (*e*) on the ground either—

(a) that the quantity of mineral proved is not sufficient to repay the outlay which would be occasioned by sinking or making a second shaft or outlet, or by establishing communication with a second shaft or outlet, in any case where such communication existed and has become unavailable; or

(b) that the workings in any seam of the mine have reached the boundary of the property or the extremity of the mineral field of which that seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working, notwithstanding that one of the shafts or outlets may be cut off by so working away the pillars of that seam;

and so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connexion with a single shaft or outlet; nor

(iii.) To any mine—

(a) while a shaft is being sunk, or an outlet being made; or

(b) one of the shafts or outlets of which has become, by reason of some accident, unavailable for the use of the persons employed in the mine;

so long as the mine is exempted by order of a

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(*e*) As to orders of exemption by a Secretary of State, see sects. 72 and 79.

Secretary of State, and as the conditions (if any) annexed to the order of exemption are duly observed. The provision in this Act requiring the two shafts or outlets of a mine to be separated by a distance of not less than fifteen yards shall not apply to any mine which is provided with two shafts sunk before the first day of January one thousand eight hundred and sixty-five but at that time separated by a distance of less than ten feet, or commenced to be sunk before the commencement of this Act but separated by a distance of more than ten feet and less than fifteen yards.

The foregoing provisions of this Act as to the dimensions of the communication between two shafts or outlets shall not apply to any mine or class of mines so long as the same is exempted therefrom by order of a Secretary of State (*e*) by reason of the thinness of the seams or other exigencies affecting that mine or class of mines, and so long as the conditions (if any) annexed to the order of exemption are duly observed.

*Division of Mine into Parts.*

Division of mine into parts.

**19.**—(1.) Where two or more parts of a mine are worked separately, the owner agent or manager of the mine may give notice in writing (*f*) to that effect to the inspector of the district, and thereupon each such part shall, for all the purposes of this Act, be deemed to be a separate mine.

(2.) If a Secretary of State is of opinion that the division of a mine in pursuance of this section tends to lead to evasion of the provisions of this Act, or otherwise to prevent the carrying of this Act into effect, he may object to the division by notice served on the owner agent or manager of the mine; and the owner agent or manager, if he declines to acquiesce in such objection, may, within twenty days after receipt of the notice, send a notice to the inspector of the district stating that he declines so to acquiesce, and thereupon the matter shall be determined

(*e*) As to orders of exemption by a Secretary of State, see sects. 72 and 79.

(*f*) As to notices under the Act, see sect. 72, *post*.

by arbitration in manner provided by this Act (*g*); and the date of the receipt of the last-mentioned notice shall be deemed to be the date of the reference.

*Certificated Managers.*

Appointment of manager of mine.

**20.**—(1.) Every mine shall be under a manager, who shall be responsible for the control, management, and direction of the mine, and the owner or agent of every such mine shall nominate himself or some other person to be the manager of such mine, and shall send written notice (*h*) to the inspector of the district of the manager's name and address.

(2.) A person shall not be qualified to be a manager of a mine unless he is for the time being registered as the holder of a first class certificate (*i*) under this Act.

(3.) If any mine is worked for more than fourteen days without there being such a manager for the mine as is required by this section, the owner and agent of the mine shall each be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding ten pounds for every day during which the mine is so worked.

Provided that—

(a.) The owner of the mine shall not be liable to any such fine if he proves that he had taken all reasonable means by the enforcement of this section to prevent the mine being worked in contravention of this section;

(b.) If for any reasonable cause there is for the time being no manager of a mine qualified as required by this section, the owner or agent of the mine may appoint any competent person not holding a certificate under this Act to be manager, for a period not exceeding two months or such longer period as may elapse before such person has an opportunity in the district wherein the mine is situate of obtaining by examination a certificate under this Act, and shall send to the inspector of

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(*g*) As to arbitration, see sect. 47, *post*.

(*h*) As to notices under the Act, see sect. 72.

(*i*) A first class certificate means a certificate of fitness to be a manager. See sect. 23.

the district a written notice of the manager's name and address, and of the reason for his appointment; and

(c.) A mine in which not more than thirty persons are employed below ground shall be exempt from the provisions of this section, unless the inspector of the district, by notice in writing served on the owner or agent of the mine, requires that it be under the control of a manager.

Daily supervision of mine by manager or under manager.

**21.**—(1.) In every mine required by this Act to be under the control of a certificated manager, daily personal supervision (*k*) shall be exercised either by the manager, or by an under manager nominated in writing by the owner or agent of the mine.

(2.) Every person so nominated must hold either a first class or second class certificate (*l*) under this Act, and shall, in the absence of the manager, have the same responsibility, and be subject to the same liabilities as the manager under this Act; but the nomination of an under manager shall not affect the personal responsibility of the manager under this Act.

Disqualifications for post of manager or under manager.

**22.** A contractor for mineral, or person employed by such a contractor, is not eligible for the post of manager or under manager under this Act.

Constitution of board for appointing examiners for granting

**23.**—(1.) There shall be two descriptions of certificates of competency under this Act, (i) first class certificates (*m*), that is to say, certificates of fitness to be manager; and (ii) second class certificates, that is to say, certificates of

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(*k*) A colliery manager brought an action against his employers, a colliery company, for wrongful dismissal; the defendants justified the dismissal on the ground that he had absented himself from the mine for certain days during the holidays, and by so doing had contravened the Mines Regulation Act, 1882 (35 & 36 Vict. c. 76). The County Court judge gave judgment for the plaintiff, but the Divisional Court set aside the judgment on the ground that a certificated manager was bound to be in daily supervision of the mine, and that his not being so, without providing some other certificated manager as the law required, was in direct contravention of the Act. (*Plant* v. *Cheadle Valley Coal Company*, Nov. 29, 1882, Q. B. D.; Times, Nov. 30, 1882.)

(*l*) A second class certificate means a certificate of fitness to be under manager. See sect. 23.

(*m*) See sect. 79.

fitness to be under manager; but no person shall be entitled to a certificate under this Act unless he shall have had practical experience in a mine for at least five years. certificates of competency to managers and under managers.

(2.) For the purpose of granting in any part of the United Kingdom, to be from time to time defined by an order of a Secretary of State, certificates of competency for the purposes of this Act, examiners shall be appointed by a board (*n*) consisting of—

(a.) Three persons being owners of mines in the said part of the United Kingdom; and

(b.) Three persons employed or who have been employed in or about any mine in the said part of the United Kingdom, not being owners agents or managers of a mine; and

(c.) Three persons practising as mining engineers agents or managers of mines, or coal viewers in the said part of the United Kingdom; and

(d.) One inspector under this Act.

(3.) The members of the board shall be appointed and may be removed by a Secretary of State, and shall hold office during his pleasure.

**24.**—(1.) The proceedings of each board shall be in accordance with the rules contained in Schedule One to this Act (*o*). Proceedings and powers of board for appointing examiners.

(2.) Each board shall from time to time appoint examiners, not being members of the board, except with the consent of the Secretary of State, to conduct the examinations in the part of the United Kingdom for which the board acts, of applicants for certificates of competency under this Act, and may from time to time make alter and revoke rules as to the conduct of such examinations and the qualifications of the applicants, so, however, that in every such examination regard shall be had to such knowledge as is necessary for the practical working of mines in that part of the United Kingdom, and that the examination and qualifications of applicants for second

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(*n*) By sect. 78, the persons who at the commencement of this Act constitute the boards for appointing examiners for managers' certificates under the Acts repealed by this Act, shall continue to act in the same manner and generally to be in the same position as if they had been appointed under this Act.

(*o*) Page 97, *post*.

class certificates shall be suitable for practical working miners.

(3.) Each board shall make from time to time to a Secretary of State a report of their proceedings, and of such other matters as a Secretary of State may from time to time require.

Rules by Secretary of State as to examinations.

**25.** A Secretary of State may from time to time make alter and revoke rules as to the places and times of examinations of applicants for certificates of competency under this Act, the number and remuneration of the examiners, and the fees to be paid by the applicants, so that the fees do not exceed those specified in Schedule Two to this Act. Every such rule shall be observed by every board appointed under this Act to which it applies.

Grant of certificates to applicants on passing examination.

**26.**—(1.) A Secretary of State shall deliver to every applicant who is duly reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety experience ability and general good conduct, such a certificate of competency as the case requires. The certificate shall be in such form as a Secretary of State from time to time directs.

(2.) A register of the holders of such certificates shall be kept by such person and in such manner as a Secretary of State from time to time directs.

Inquiry into competency of manager, and cancellation of certificate in case of unfitness.

**27.** If at any time representation is made to a Secretary of State by an inspector or otherwise, that any manager or under-manager holding a certificate under this Act is by reason of incompetency or gross negligence unfit to discharge his duties, or has been convicted of an offence against this Act, the Secretary of State may, if he think fit, cause inquiry to be made into the conduct of the manager or under-manager (*p*), and with respect to every such inquiry the following provisions shall have effect:—

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(*p*) See sect. 42, sub-sect. (1), which provides that if in any respect (which is not provided against by any express provision of this Act, or by any special rule) any inspector finds any mine, or any part thereof, or any matter, thing, or practice in or connected with any such mine, or with the control, management, or direction thereof by the manager to be dangerous or defective, so as, in his opinion, to threaten or tend to the bodily injury of any person, he may give notice thereof, and require the same to be remedied; and unless the same be forthwith remedied, shall report to the Secretary of State.

(1.) The inquiry shall be public, and shall be held at such place as the Secretary of State may appoint by such County Court judge, metropolitan police magistrate, stipendiary magistrate (*q*), or other person or persons, as may be directed by the Secretary of State, and either alone or with the assistance of any assessor or assessors named by the Secretary of State:

(2.) The Secretary of State shall, before the commencement of the inquiry, furnish to the manager or under-manager a statement of the case on which the inquiry is instituted:

(3.) Some person appointed by the Secretary of State shall undertake the management of the case:

(4.) The manager or under-manager may attend the inquiry by himself, his counsel, solicitor, or agent, and may, if he thinks fit, be sworn and examined as an ordinary witness in the case:

(5.) The person or persons appointed to hold the inquiry, in this Act referred to as the Court, shall, on the conclusion of the inquiry, send to the Secretary of State a report containing a full statement of the case, and the opinion of the Court thereon, and such report of, or extracts from the evidence, as the Court may think fit:

(6.) The Court shall have power to cancel or suspend the certificate of the manager or under-manager, if it finds that he is by reason of incompetency or gross negligence, or of his having been convicted of an offence against this Act, unfit to discharge his duty:

(7.) The Court may, if it thinks fit, require a manager or under-manager to deliver up his certificate, and if any manager or under-manager fails, without sufficient cause to the satisfaction of the Court, to comply with such requisition, he shall be liable to a fine not exceeding one hundred

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(*q*) By sect. 76, sub-sect. (8), in the application of this Act to Scotland, "County Court judge, police magistrate, stipendiary magistrate, recorder, or registrar of a County Court," means a sheriff or sheriff-substitute; and by sect. 77, in the application of this Act to Ireland, "police or stipendiary magistrate" means resident magistrate.

pounds. The Court shall hold a certificate so delivered until the conclusion of the investigation, and shall then either restore cancel or suspend the certificate according to its judgment on the case:

(8.) The Court shall have for the purpose of the inquiry, all the powers of a court of summary jurisdiction, and all the powers of an inspector under this Act:

(9.) The Court may also, by summons signed by the Court, require the attendance of all such persons as it thinks fit to summon and examine for the purpose of the inquiry; and every person so summoned shall be allowed such expenses as would be allowed to a witness attending on subpœna before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred by the Court to a master of one of her Majesty's Superior Courts (*r*), who, on request signed by the Court, shall ascertain and certify the proper amount of such expenses.

Costs and expenses of inquiry.

**28.**—(1.) The Court may make such order as it thinks fit respecting the costs and expenses of the inquiry, and such order shall, on the application of any party entitled to the benefit thereof, be enforced by any court of summary jurisdiction as if such costs and expenses were a fine imposed by that Court.

(2.) The Secretary of State may, if he thinks fit, pay to the person or persons constituting the Court, including any assessors, such remuneration as he may with the consent of the Treasury appoint.

(3.) Any costs and expenses ordered by the Court to be paid by a Secretary of State, and any remuneration paid under this section, shall be paid out of moneys provided by Parliament.

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(*r*) By sect. 76, sub-sect. (7), in Scotland the auditor of the sheriff court of the county or district of a county in which any inquiry takes place shall perform the duties of a master of one of the superior Courts under this Act. In Ireland, by sect. 77, "master of one of her Majesty's Superior Courts," means a taxing master of the High Court of Justice in Ireland.

Record of cancellation of certificate, restoration in certain cases.

**29.**—(1.) Where a certificate of a manager or undermanager is cancelled or suspended in pursuance of this Act, a Secretary of State shall cause the cancellation or suspension to be recorded in the register of holders of certificates (*s*).

(2.) A Secretary of State may at any time, if it is shown to him to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has been cancelled or suspended in pursuance of this Act, and cause the renewal or restoration to be recorded in the register aforesaid.

Copy of certificate in case of loss.

**30.** Whenever any person proves to the satisfaction of a Secretary of State that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act, the Secretary of State shall, on payment of such fee, if any, as he may direct, but not exceeding the fee specified in Schedule Two to this Act, cause a copy of the certificate to which the applicant appears by the register to be entitled, to be made out and certified by the person who keeps the register, and delivered to the applicant; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original certificate (*t*).

Expenses in relation to certificates, and application of fees.

**31.**—(1.) All expenses incurred by a Secretary of State with the concurrence of the Treasury in carrying into effect the provisions of this Act with respect to certificates of competency shall be defrayed out of moneys provided by Parliament.

(2.) All fees payable by the applicants for examination for or for a copy of a certificate under this Act shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury may from time to time direct, and be carried to the Consolidated Fund.

Penalty for forgery of, or false declaration as to, certificate.

**32.** Every person who commits any of the following offences; that is to say,

(1.) Forges, or counterfeits, or knowingly makes any

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(*s*) Sect. 79 provides that the register of holders of certificates, and the other registers which at the commencement of this Act are kept in pursuance of the Acts hereby repealed, shall be deemed to be registers or parts of registers kept in pursuance of this Act.

(*t*) The fees for copies of certificates are:

| | |
|---|---|
| First class certificate - - | *Five shillings.* |
| Second class certificate - - | *Two shillings and sixpence.* |

false statement in any certificate of competency under this Act, or in any certificate of service granted under this Act or any Act repealed by this Act, or any official copy of any such certificate; or

(2.) Knowingly utters or uses any such certificate or copy which has been forged or counterfeited or contains any false statement; or

(3.) For the purpose of obtaining, for himself or any other person, employment as a certificated manager or under-manager, or the grant renewal or restoration of any certificate under this Act, or a copy thereof, either

(a) makes or gives any declaration representation statement or evidence which is false in any particular, or

(b) knowingly utters, produces, or makes use of any such declaration representation statement or evidence, or any document containing the same,

shall be guilty of a misdemeanour (*u*), and be liable on conviction to imprisonment for a term not exceeding two years, with or without hard labour.

*Returns, Plan, Notices, and Abandonment.*

Returns by owner agent or manager of mine.

**33.**—(1.) On or before the twenty-first day of January in every year the owner agent or manager of every mine shall send to the inspector of the district on behalf of a Secretary of State a correct return, specifying, with respect to the year ending on the preceding thirty-first day of December, the particulars contained in the form in Schedule Three (*x*) to this Act, or in such other form as may from time to time be prescribed in lieu of that form by a Secretary of State: Provided that in the case of any mine which is not required by this Act to be under the control of a certificated manager, a return shall not be required of the particulars contained in Part B. of the said form unless or until a Secretary of State otherwise prescribes.

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(*u*) In Scotland, by sect. 76 (3), the term "misdemeanour" means "crime and offence."

(*x*) See p. 99.

(2.) Forms for the purpose of the returns required by this section shall from time to time, on application, be furnished by the inspector of the district on behalf of the Secretary of State.

(3.) The Secretary of State may publish the aggregate results of the returns made under this section with respect to any particular county or inspector's district, or any large portion of a county or inspector's district, and so much of any individual return as does not relate to the quantity of mineral gotten or wrought, but the portion of any individual return relating to the quantity of mineral gotten or wrought shall not be published without the consent of the person making the return, or of the owner of the mine to which it relates; and no person except an inspector or Secretary of State or any body of commissioners incorporated by Act of Parliament for the drainage of mines, and authorized to assess and levy rates in respect of minerals gotten from such mines, shall be entitled, without such consent, to see such portion as aforesaid of any individual return.

(4.) Every owner agent or manager of a mine who fails to comply with this section or makes any return which is to his knowledge false in any particular shall be guilty of an offence against this Act (*y*).

Plan of mine to be kept at office.

**34.**—(1.) The owner agent or manager of every mine shall keep in the office at the mine an accurate plan (*z*) of the workings of the mine, showing the workings (*a*) up to a date not more than three months previously, and the general direction and rate of dip of the strata, together with a section of the strata sunk through, or if that be not reasonably practicable, a statement of the depth of the shaft, with a section of the seam.

(2.) The owner agent or manager of the mine shall, on request at any time of an inspector under this Act, produce to him at the office at the mine such plan and section,

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(*y*) See sect. 59, sub-sect. (2).

(*z*) By sect. 75, "plan" includes a correct copy or tracing of any original plan.

(*a*) By sect. 3 of the Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43), *post*, the plan required to be kept by this section shall show the position of the workings therein mentioned with regard to the surface, and the position, extension, and direction of every known fault or dislocation of the seam with its vertical throw.

and shall also on the like request mark on such plan and section the then state of the workings of the mine; and the inspector shall be entitled to examine the plan and section, and for official purposes only to make a copy of any part thereof respectively.

(3.) If the owner agent or manager of any mine fails to keep, or wilfully refuses to produce or allow to be examined, the plan and section aforesaid, or wilfully withholds any portion thereof, or wilfully refuses, on request, to mark thereon the state of the workings of the mine, or conceals any part of those workings, or produces an imperfect or inaccurate plan or section, he shall (unless he shows that he was ignorant of the concealment imperfection or inaccuracy) be guilty of an offence against this Act; and further, the inspector may by notice in writing (whether a penalty for the offence has or has not been inflicted) require the owner agent or manager to cause an accurate plan and section, showing the particulars hereinbefore required, to be made within a reasonable time at the expense of the owner of the mine. Every such plan must be on a scale of not less than that of the ordnance survey of twenty-five inches to the mile or on the same scale as the plan for the time being in use at the mine.

(4.) If the owner agent or manager fails within twenty days after the requisition of the inspector, or within such further time as may be allowed by a Secretary of State, to cause such plan and section to be made as hereby required, he shall be guilty of an offence against this Act (*b*).

Notice to be given of accidents in mines.

**35.**—(1.) Where in or about any mine, whether above or below ground, either—

(i.) loss of life or any personal injury whatever to any person employed in or about the mine occurs by reason of any explosion of gas, or of any explosive, or of any steam boiler; or

(ii.) loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever,

the owner agent or manager of the mine shall, within twenty-four hours next after the explosion or accident,

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(*b*) See sect. 59, sub-s. (2).

send notice in writing (*c*) of the explosion or accident and of the loss of life or personal injury (*d*) occasioned thereby to the inspector of the district on behalf of a Secretary of State (*e*), and shall specify in the notice the character of the explosion or accident and the number of persons killed or injured respectively.

(2.) Where loss of life or serious personal injury has immediately resulted from an explosion or accident, the place where the explosion or accident occurred shall be left as it was immediately after the explosion or accident, until the expiration of at least three days after the sending of such notice as aforesaid of such explosion or accident, or until the visit of the place by an inspector, whichever first happens, unless compliance with this enactment would tend to increase or continue a danger or would impede the working of the mine.

(3.) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the inspector of the district on behalf of a Secretary of State within twenty-four hours after such

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(*c*) As to notices under this Act, see sect. 73, *post*, p. 91.

(*d*) By sect. 9 of the Coal Mines Regulation Act, 1855 (18 & 19 Vict. c. 108), the owner or agent of a coal mine or colliery, who in case of loss of life to any person employed in such coal mine or colliery, by reason of any accident, or in case of serious personal injury arising from explosion therein, does not send notice of such accident to the inspector of the district, within twenty-four hours next after such loss of life, is to be liable to a penalty. The appellants were owners of a coal mine in which serious personal injury arose from explosion. They did not give notice to the inspector, and were convicted for not doing so under the above section. *Held*, that words had been omitted which were necessary to create the offence which the appellants were supposed to have committed, and that, as those words could only be supplied by the legislature, the appellants were not liable to the penalty. (*Underhill* v. *Longridge*, Nov. 16, 1859; 29 L. J. M. C. 65.) The words "personal injury" after the words "loss of life" are supplied in this section.

(*e*) Under sect. 44, where in any mine an explosion or accident has caused loss of life or personal injury to any person, a Secretary of State may at any time direct an inspector to make a special report with respect to the explosion or accident. And by sect. 45, where it appears to a Secretary of State that a formal investigation of any explosion or accident and of its causes and circumstances is expedient, the Secretary of State may direct such investigation to be held.

death comes to the knowledge of the owner agent or manager.

(4.) Every owner agent or manager who fails to act in compliance with this section shall be guilty of an offence against this Act (*f*).

Notice to be given of opening and abandonment of mine.

**36.** In any of the following cases, namely,

(i.) Where any working is commenced for the purpose of opening a new shaft for or a seam of any mine;

(ii.) Where a shaft or seam of any mine is abandoned or the working thereof discontinued;

(iii.) Where the working of a shaft or a seam of any mine is recommenced after any abandonment or discontinuance for a period exceeding two months; or

(iv.) Where any change occurs in the name of any mine or in the name of the owner, agent, or manager of any mine to which this Act applies, or in the principal officers of any incorporated company which is the owner of a mine;

the owner agent or manager of the mine shall give notice (*g*) thereof to the inspector of the district within two months after the commencement, abandonment, discontinuance recommencement or change, and if such notice is not given the owner agent or manager shall be guilty of an offence against this Act (*h*).

Fencing in case of abandoned mine.

**37.**—(1.) Where any mine is abandoned or the working thereof discontinued, at whatever time the abandonment or discontinuance occurred, the owner thereof, and every other person interested in the minerals of the mine (*i*), shall cause the top of every shaft and every side entrance from

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(*f*) See sects. 59 and 70.

(*g*) As to notices under the Act, see sect. 73.

(*h*) See sect. 59.

(*i*) As to the meaning of "owner thereof, and every other person interested in the minerals of the mine," see sect. 75, and *Stott* v. *Dickinson*, Feb. 17, 1876; 34 L. T. 291, decided on these words in sect. 41 of the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), and *Evans* v. *Mostyn*, Ap. 20, 1877; L. R. 2 C. P. D. 547; 47 L. J. M. C. 25; and *Arkwright* v. *Evans*, Feb. 27, 1880; 49 L. J. M. C. 82, decided on similar words in sect. 13 of the Metalliferous Mines Regulation Act, 1872 (35 & 36 Vict. c. 77).

the surface to be and to be kept securely fenced for the prevention of accidents (*j*) :

Provided that—

(i.) Subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine, be liable to carry into effect this section, and to pay any costs charges and expenses incurred by any other person interested in the minerals of the mine in carrying this section into effect:

(ii.) Nothing in this section shall exempt any person from any liability under any other Act, or otherwise.

(2.) If any person fails to act in conformity with this section, he shall be guilty of an offence against this Act (*k*).

(3.) No person shall be precluded by any agreement from doing, or be liable under any contract to any damages penalty or forfeiture for doing such acts as may be necessary in order to comply with the provisions of this section.

(4.) If any occupier of land or other person wilfully obstructs the owner of a mine or other person interested as aforesaid in doing any such acts, he shall be guilty of an offence against this Act.

(5.) Any shaft or side entrance which is not fenced as required by this section, and is within fifty yards of any highway, road, footpath, or place of public resort, or is in open or uninclosed land, shall be deemed to be a nuisance within the meaning of section ninety-one of the Public Health Act, 1875. 38 & 39 Vict. c. 55.

**38.**—[(1.) Where any mine or seam is abandoned, the person who is owner of the mine or seam at the time of its abandonment shall, within three months after the abandonment, send to a Secretary of State:

(i.) An accurate plan of the mine or seam, being either the original working plan or an accurate copy

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(*j*) It was decided that, to comply with sect. 13 of the Metalliferous Mines Act, 1872, which is similar to this, the fence to a side entrance to a disused mine must be constructed and maintained immediately adjacent to such side entrance, whether the mine be situated on enclosed ground or not. *Foster* v. *Owen*, Oct. 31, 1892; 62 L. J. M. C. 7; 67 L. T. 712; 41 W. R. 240; 57 J. P. 87.

(*k*) See sect. 59.

thereof made by a competent draftsman, and showing—

(a) the boundaries of the workings of the mine or seam, including not only the working faces but also all headings in advance thereof, up to the time of the abandonment;

(b) the pillars of coal or other mineral remaining unworked;

(c) the position, direction, and extent of every known fault or dislocation of the seam with its vertical throw;

(d) the position of the workings with regard to the surface boundary;

(e) the general direction and rate of dip of the strata; and

(f) a statement of the depth of the shaft from the surface to the seam abandoned; and

(ii) A section of the strata sunk through, or if that is not reasonably practicable, a statement of the depth of the shaft with a section of the seam.

Every such plan must be on a scale of not less than that of the ordnance survey of twenty-five inches to the mile, or on the same scale as the plan used at the mine at the time of its abandonment, and its accuracy must be certified, so far as is reasonably practicable, by a surveyor or other person approved in that behalf by an inspector of mines (*l*).]

(2.) The plan and section shall be preserved under the care of the Secretary of State; but no person, except an inspector under this Act, shall be entitled, without the consent of the owner of the mine or seam [or the licence of a Secretary of State (*m*)], to see the plan when so sent until after the expiration of ten years from the time of the abandonment. [Provided that such licence shall not be granted unless the Secretary of State is satisfied that the inspection of such plan is necessary in the interests of safety (*m*).]

(3.) The owner aforesaid shall also, within three months of the abandonment of the mine or seam, send to the inspector of the district, on behalf of a Secretary of State,

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(*l*) This is as amended by sect. 4 of the Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43), *post*.

(*m*) This is as amended by the Coal Mines Regulation Act, 1896.

a correct return specifying, with respect to the period which has elapsed since the expiration of the year covered by the last annual return made under this Act, the particulars required in that return; and the provisions of this Act with respect to the said annual return shall apply to the return so sent.

(4.) If the owner of a mine or seam fails to comply with this section, he shall be guilty of an offence against this Act, and be liable to a fine not exceeding thirty pounds.

(5.) A complaint or information of an offence under this section may be made or laid at any time within six months after abandonment of the mine or seam, or after service on the owner aforesaid of a notice to comply with the requirements of this section, whichever last happens (*n*).

*Inspection.*

Appointment of inspectors of mines.

**39.**—(1.) A Secretary of State may from time to time appoint any fit persons to be inspectors (under whatever title he may from time to time fix) of mines, and assign them their duties, and may award them such salaries as the Treasury may approve, and may remove any such inspector (*o*): Provided always, that in the appointment of inspectors of mines in Wales and Monmouthshire among candidates, otherwise equally qualified, persons having a knowledge of the Welsh language shall be preferred.

(2.) Notice of the appointment of every such inspector shall be published in the London Gazette (*p*).

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(*n*) The Coal Mines Regulation Act, 1896, s. 4, provides to this section an additional sub-section:—

"(3.) The High Court, or, in Scotland, the Court of Session, may on application by or on behalf of the Secretary of State, make an order requiring any person who has, for the time being, the custody or possession of any plan or section of an abandoned mine or seam to produce it to the Secretary of State for the purpose of inspection or copying."

See *post*, p. 107.

(*o*) By sect. 78, the persons who at the commencement of this Act are acting as inspectors under the Acts by this Act repealed, shall continue to act in the same manner, and generally to be in the same position as if they had been appointed under this Act.

(*p*) By sect. 77, in the application of this Act to Ireland, "London Gazette," means Dublin Gazette.

(3.) Every such inspector is referred to in this Act as an inspector, and the inspector of a district means the inspector who is for the time being assigned to the district or portion of the United Kingdom with reference to which the term is used.

35 & 36 Vict. c. 77.

(4.) Any person appointed or acting as inspector under the Metalliferous Mines Regulation Act, 1872, if directed by a Secretary of State to act as an inspector under this Act, may so act, and shall be deemed to be an inspector under this Act.

(5.) The salaries of the inspectors and the expenses incurred by them or by a Secretary of State in the execution of this Act shall continue to be paid out of moneys to be provided by Parliament.

Disqualification of persons as inspectors.

**40.** Any person who practises or acts as or is a partner of any person who practises or acts as a land agent or mining engineer, or as a manager viewer agent or valuer of mines, or arbitrator in any difference arising between owners agents or managers of mines, or is otherwise employed in or about any mine, or is a miner's agent or a mine owner (whether the mine is one to which this Act applies or not), shall not act as an inspector of mines under this Act, and no inspector shall be a partner or have any interest direct or indirect in any mine in the district under his charge.

Powers of inspectors.

**41.** An inspector under this Act shall have power to do all or any of the following things; namely,

(i.) To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to matters above ground or below ground are complied with in the case of any mine:

(ii.) To enter inspect and examine any mine, and every part thereof, at all reasonable times by day and night, but so as not to impede or obstruct the working of the mine:

(iii.) To examine into and make inquiry respecting the state and condition of any mine, or any part thereof, and the ventilation of the mine, and the sufficiency of the special rules for the time being in force in the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any

mine contiguous thereto, or the care and treatment of the horses and other animals used in the mine:

(iv.) To exercise such other powers as may be necessary for carrying this Act into effect.

Every person who wilfully obstructs any inspector in the execution of his duty under this Act, and every owner agent and manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making any entry inspection examination or inquiry under this Act, in relation to the mine, shall be guilty of an offence against this Act (*q*).

Notice by inspector of causes of danger not expressly provided against.

**42.**—(1.) If in any respect (which is not provided against by any express provision of this Act, or by any special rule) any inspector finds any mine, or any part thereof, or any matter thing or practice in or connected with any such mine, or with the control, management, or direction thereof by the manager to be dangerous or defective, so as in his opinion to threaten or tend to the bodily injury of any person, he may give notice in writing thereof to the owner agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine or any part thereof, or any matter thing or practice, to be dangerous or defective, and require the same to be remedied (*r*); and unless the same be forthwith remedied shall also report the same to a Secretary of State.

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(*q*) See sect. 59, *post*, p. 86.

(*r*) This enables the inspector to give notice only in cases where the danger specified in the notice is one which can actually be remedied by the occupier of the mine, and not in cases where the danger is beyond his control. A mine was found by the inspector to be dangerous to the workmen, owing to an accumulation of water in an adjoining mine. The inspector, under sect. 46 of the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), which corresponds with this section, gave notice to the owners to remedy the danger, and summoned them for disobeying the order, and they were convicted. *Held:* the conviction was wrong, because the 46th section applied only to things that were within the owners' powers to do, without going into a third party's premises, and did not extend to the withdrawal of workmen, which was expressly provided for under sect. 51, sub-s. (6), which corresponded with sect. 49, rule 7 of this Act. (*Reg.* v. *Spon Lane Colliery Co.*, June 22, 1878; L. R. 3 Q. B. D. 673; 39 L. T. 13; reported as *Reg.* v. *Baker*, 42 J. P. 404.)

(2.) If the owner agent or manager of the mine objects to remedy the matter complained of in the notice he may, within ten days after receipt of the notice, send his objection in writing, stating the grounds thereof, to a Secretary of State; and thereupon the matter shall be determined by arbitration in manner provided by this Act (*s*); and the date of the receipt of the objection shall be deemed to be the date of the reference.

(3.) If the owner agent or manager fail, when no objection is sent as aforesaid, to comply with the requisition of the notice within ten days after the expiration of the time for objection, or when there has been an arbitration to comply with the award within the time fixed by the award, he shall be guilty of an offence against this Act (*t*), and the notice and award shall respectively be deemed to be written notice of the offence.

Provided that the Court, if satisfied that the owner agent or manager has taken active measures for complying with the notice or award, but has not, with reasonable diligence, been able to complete the works, may adjourn any proceedings taken before them for punishing the offence, and, if the works are completed within a reasonable time, no penalty shall be inflicted.

(4.) No person shall be precluded by any agreement from doing, or be liable under any contract to any penalty or forfeiture for doing, such acts as may be necessary in order to comply with the provisions of this section.

Annual reports of inspectors.

**43.** Every inspector of a district (*u*) under this Act shall make an annual report of his proceedings during the preceding year to a Secretary of State, which report shall be laid before both Houses of Parliament.

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(*s*) As to provisions relating to arbitration, see sect. 47.

On the same words in the Coal Mines Regulation Act, 1872, s. 42, it has been decided that the duty of the arbitrator is limited to determining whether the matter complained of is dangerous and ought to be remedied, and he has no power to determine what is the proper remedy, or to direct that any particular remedy be adopted. (*H. M. Secretary of State for the Home Department* v. *Fletcher*, Jan. 17, 1887; L. R. 18 Q. B. D. 339; 51 J. P. 707.)

(*t*) See sect. 59.

(*u*) By sect. 39, sub-s. (3), inspector of a district means the inspector who is for the time being assigned to the district, or portion of the United Kingdom with reference to which the term is used.

Special reports of inspectors.

**44.** Where in any mine an explosion or accident has caused loss of life or personal injury to any person, a Secretary of State may at any time direct an inspector to make a special report (*x*) with respect to the explosion or accident.

Formal investigation when directed by Secretary of State.

**45.** Where it appears to a Secretary of State that a formal investigation of any explosion (*y*) or accident and of its causes and circumstances is expedient, the Secretary of State may direct such investigation to be held, and with respect to any such investigation the following provisions shall have effect:

(1.) The Secretary of State may appoint a competent person to hold the investigation, and may appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the investigation.

(2.) The person or persons so appointed (hereinafter called the Court) shall hold the investigation in open Court, in such manner and under such conditions as the Court may think most effectual for ascertaining the causes and circumstances of the explosion or accident, and enabling the Court to make the report in this section mentioned.

(3.) The Court shall have for the purpose of the investigation all the powers of a Court of summary jurisdiction when acting as a Court in hearing informations for offences against this Act, and all the powers of an inspector under this Act, and in addition the following powers; namely,

(a.) Power to enter and inspect any place or building, the entry or inspection whereof appears to the Court requisite for the said purpose:

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(*x*) By sect. 46, the Secretary of State may cause any special report of an inspector to be made public at such time, and in such manner as he may think fit.

(*y*) It has been held that sect. 2 of the Boiler Explosions Act, 1890 (53 & 54 Vict. c. 35), repealed the provisions in sect. 4 of the Boiler Explosions Act, 1882 (45 & 46 Vict. c. 22), which provided that the Board of Trade should not hold an inquiry as to any boiler explosion into which an inquiry might be held under the provisions of the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), and that the Board of Trade, therefore, has jurisdiction to hold such an inquiry. (*Reg.* v. *Boiler Explosion Commissioners*, Mar. 12, 1891; [1891] 1 Q. B. 703; 60 L. J. Q. B. 497; 39 W. R. 440.)

(b.) Power, by summons signed by the Court, to require the attendance of all such persons as it thinks fit to call before it and examine for the said purpose, and for that purpose to require answers or returns to such inquiries as it thinks fit to make:

(c.) Power to require the production of all books, papers, and documents which it considers important for the said purpose:

(d.) Power to administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination:

(4.) Persons attending as witnesses before the Court shall be allowed such expenses as would be allowed to witnesses attending before a Court of record; and in case of dispute as to the amount to be allowed, the same shall be referred by the Court to a master of one of her Majesty's superior Courts, who on request, signed by the Court, shall ascertain and certify the proper amount of the expenses:

(5.) The Court holding an investigation under this section shall make a report to the Secretary of State, stating the causes of the explosion or accident and its circumstances, and adding any observations which the Court thinks right to make:

(6.) All expenses incurred in and about an investigation under this section (including the remuneration of any person appointed to act as assessor) shall be deemed to be part of the expenses of the Secretary of State in the execution of this Act:

(7.) Any person who without reasonable excuse (proof whereof shall lie on him) either fails, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of a Court holding an investigation under this section, or prevents or impedes the Court in the execution of its duty, shall for every such offence be liable to a fine not exceeding ten pounds, and in the case of a failure to comply with a requisition for making any return or pro-

ducing any document shall be liable to a fine not exceeding ten pounds for every day that such failure continues.

**46.** The Secretary of State may cause any special report of an inspector or any report of a Court under this part of this Act to be made public at such time and in such manner as he may think fit. Publication of reports.

*Arbitration.*

**47.** With respect to arbitrations under this Act (*z*), the following provisions shall have effect: Provisions as to arbitrations.

(1.) The parties to the arbitration (*a*) are in this section deemed to be the owner, agent or manager of the mine on the one hand, and the inspector of mines (on behalf of the Secretary of State) on the other:

(2.) Each of the parties to the arbitration may, within fourteen days after the date of the reference, appoint an arbitrator:

(3.) No person shall act as arbitrator or umpire under this Act who is employed in or in the management of or is interested in the mine to which the arbitration relates:

(4.) The appointment of an arbitrator under this section shall be in writing, and notice of the appointment shall be forthwith sent to the other

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(*z*) By sect. 24 of the Arbitration Act, 1889 (52 & 53 Vict. c. 49), that Act is to apply to every arbitration under any Act passed before or after the commencement of that Act, as if the arbitration were pursuant to a submission, except in so far as that Act is inconsistent with the Act regulating the arbitration, or with any rules, procedure authorized or recognized by that Act.

(*a*) Now by sect. 2 of the Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43, *post*, p. 105), where any matter in difference is referred to arbitration under this Act, a majority of the workmen employed in the mine to which the arbitration relates may, on giving such security, if any, as may appear to the arbitrators or umpire sufficient to provide for the costs, appoint any person to represent the workmen, or any class of them, on the arbitration, and any person so appointed shall be entitled to attend and take part in the proceedings of the arbitration to such extent and in such manner as the arbitrators or umpire may direct, and be subject to the same liability with respect to costs as if he were a party to the arbitration.

party to the arbitration, and shall not be revoked without the consent of that party:

(5.) The death, removal or other change in any of the parties to the arbitration shall not affect the proceedings under this section:

(6.) If within the said fourteen days either of the parties fails to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final:

(7.) If before an award has been made any arbitrator appointed by either party dies or becomes incapable to act, or for seven days refuses or neglects to act, the party by whom such arbitrator was appointed may appoint some other person to act in his place; and if he fails to do so within seven days after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final:

(8.) In either of the foregoing cases where an arbitrator is empowered to act singly, on one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had occurred:

(9.) If the arbitrators fail to make their award within twenty-one days after the date on which the last of them was appointed, or within such extended time (if any) as may have been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned:

(10.) The arbitrators, before they enter on the matter referred to them, shall appoint by writing under their hands an umpire to decide on points on which they may differ:

(11.) If the umpire dies or becomes incapable of acting before he has made his award, or refuses to make his award within a reasonable time after the matter has been brought within his cognizance,

the persons or person who appointed such umpire shall forthwith appoint another umpire in his place:

(12.) If the arbitrators refuse or fail or for seven days after the request of either party neglect to appoint an umpire, then on the application of either party an umpire may be appointed by the chairman of the general or quarter sessions of the peace, within the jurisdiction of which the mine or any shaft of the mine is situate:

(13.) The decision of every umpire on the matters referred to him shall be final:

(14.) If a single arbitrator fails to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place:

(15.) Arrangements shall whenever practicable be made for the matter in difference being heard at the same time before the arbitrators and the umpire:

(16.) The arbitrators and the umpire or any of them may examine the parties and their witnesses on oath, and may also consult any counsel engineer or scientific person whom they may think it expedient to consult:

(17.) The payment, if any, to be made to any arbitrator or umpire for his services shall be fixed by the Secretary of State, and together with the costs of the arbitration and award shall be paid by the parties or one of them according as the award may direct. Such costs may be taxed by a master of one of Her Majesty's superior Courts, who, on the written application of either of the parties, shall ascertain and certify the proper amount thereof. The amount, if any, payable by the Secretary of State shall be paid as part of the expenses of inspectors under this Act. The amount, if any, payable by the owner, agent or manager may, in the event of non-payment, be recovered in the same manner as fines under this Act:

(18.) Every person who is appointed an arbitrator under this section shall be a practical mining engineer,

or a person accustomed to the working of mines, and every person who is appointed an umpire under this section shall be a county court judge, a police or stipendiary magistrate, a recorder of a borough, or a registrar of a county court, but when an award has been made under this section the arbitrator or umpire who made it shall be deemed to have been duly qualified as provided by this section.

*Coroners (c).*

Provisions as to coroners' inquests on deaths from accidents in mines.

**48.** With respect to coroners' inquests on the bodies of persons whose death may have been caused by explosions or accidents in or about mines, the following provisions shall have effect:

(1.) Where a coroner holds an inquest on the body of any person whose death may have been caused by any explosion or accident, of which notice is required by this Act to be given to the inspector of the district, the coroner shall adjourn the inquest unless an inspector, or some person on behalf of a Secretary of State, is present to watch the proceedings:

(2.) The coroner, at least four days before holding the adjourned inquest, shall send to the inspector for the district notice in writing of the time and place of holding the adjourned inquest:

(3.) The coroner, before the adjournment, may take evidence to identify the body, and may order the interment thereof:

(4.) If an explosion or accident has not occasioned the death of more than one person, and the coroner has sent to the inspector of the district notice of the time and place of holding the inquest at such time as to reach the inspector not less than twenty-four hours before the time of holding the same, it shall not be imperative on him to ad-

(c) For general law of coroners, see Coroners Act, 1887 (50 & 51 Vict. c. 71). Very full instructions to coroners as to the conduct of inquests in cases coming within the above section, or under certain other analogous enactments, are contained in a circular addressed to coroners, which was issued by the Home Office under date 28th October, 1896.

journ the inquest in pursuance of this section, if the majority of the jury think it unnecessary so to adjourn:

(5.) An inspector shall be at liberty at any such inquest to examine any witness, subject nevertheless to the order of the coroner:

(6.) Where evidence is given at an inquest at which an inspector is not present of any neglect as having caused or contributed to the explosion or accident, or of any defect in or about the mine appearing to the coroner or jury to require a remedy, the coroner shall send to the inspector of the district notice in writing of such neglect or defect:

(7.) Any person having a personal interest in or employed in or in the management of the mine in which the explosion or accident occurred shall not be qualified to serve on the jury empannelled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such person to be sworn or to sit on the jury:

(8.) Any relative of any person whose death may have been caused by the explosion or accident with respect to which the inquest is being held, and the owner agent or manager of the mine in which the explosion or accident occurred, and any person appointed by the order in writing of the majority of the workmen employed at the said mine, shall be at liberty to attend and examine any witness, either in person or by his counsel, solicitor, or agent, subject nevertheless to the order of the coroner.

Every person who fails to comply with the provisions of this section, shall be guilty of an offence against this Act (*d*).

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(*d*) See sect. 59, sub-s. (2), *post*, p. 86, as to the penalties for offences against the Act. By sect. 65 of this Act, *post*, p. 88, no prosecution shall be instituted against a coroner for any offence under this Act, except with the consent in writing of a Secretary of State.

## PART II.

### Rules.

*General Rules.*

General rules:

**49.** The following general rules shall be observed (*e*), so far as is reasonably practicable (*f*), in every mine (*g*):

Ventilation of mine.

Rule 1. An adequate amount of ventilation (*h*) shall be constantly (*i*) produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shafts, levels, stables, and workings of the mine, and the travelling roads to and from those working

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(*e*) By sect. 1, sub-s. (2), of the Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43), *post*, p. 105, while any special rules made under that section are in force in any mine, any general rule contained in this (forty-ninth) section, and any special rule established under this Act, shall, if and so far as it is inconsistent with any special rules made under that section, be suspended in relation to that mine.

(*f*) The expression "reasonably practicable" does not relate to the carrying on of the mine as a profitable concern, but to physical or engineering difficulties in the way of carrying out the rules. (*Wales* v. *Thomas*, Nov. 6, 1885; L. R. 16 Q. B. D. 340; 50 J. P. 516, decided on the same words in sect. 51 of the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76).)

(*g*) By sect. 51, every person who contravenes or does not comply with any of the general rules in this Act shall be guilty of an offence against this Act; and, in the event of any contravention of or non-compliance with any of the said general rules in the case of any mine to which this Act applies, by any person whomsoever, the owner, agent and manager shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing, and to the best of his power enforcing, the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance.

(*h*) It is not sufficient compliance with this rule to cause ventilation to pass along the working places and travelling roads, but so much of the mine must be so ventilated as to render the working places and travelling roads safe. (*Brough* v. *Homfray*, June 3, 1868; L. R. 3 Q. B. 771; 32 J. P. 804, decided on similar words in the Mines Inspection Act, 1860 (23 & 24 Vict. c. 151, s. 10, rule 1).)

(*i*) So long as a colliery is being worked with only the temporary cessation at night, or on Sunday, or other proper days of rest, the colliery is at work and must be kept *constantly* ventilated. (*Knowles* v. *Dickinson*, April 21, 1860; 2 E. & E. 705; 29 L. J. (N. S.) M. C. 135; 24 J. P. 581; 8 W. R. 411; also decided on words in the Mines Inspection Act, 1860.)

places shall be in a fit state for working and passing therein.

In the case of mines required by this Act to be under the control of a certified manager, the quantity of air in the respective splits or currents shall at least once in every month be measured and entered in a book (*k*) to be kept for the purpose at the mine.

Rule 2. Where a fire is used for ventilation in any mine newly opened after the passing of this Act, the return air, unless it be so diluted as not to be inflammable, shall be carried off clear of the fire by means of a dumb drift or airway.

Rule 3. Where a mechanical contrivance for ventilation is introduced into any mine after the commencement of this Act, it shall be in such position and placed under such conditions as will tend to insure its being uninjured by an explosion.

Stations and inspection of condition as to ventilation, &c.

Rule 4. A station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require; and the following provisions shall have effect:

(i.) As to inspection before commencing work (*l*) :—

A competent person or competent persons appointed by the owner agent or manager for the purpose not being contractors for getting minerals in the mine shall, within such time immediately before the commencement of each shift as shall be fixed by special rules made under this Act, inspect every part of the mine situate beyond the station or each of the stations, and in which workmen are to work or pass during that shift, and shall ascertain the condition thereof so far as the presence of gas ventilation, roof and sides, and general safety are concerned.

No workman shall pass beyond any such station until the part of the mine beyond that station has been so examined and stated by such competent person to be safe.

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(*k*) By rule 37, the books mentioned in these rules shall be provided by the owner, agent, or manager, and the books, or a correct copy thereof, shall be kept at the office at the mine.

(*l*) By sect. 5, *post*, p. 107, of the Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43), this inspection shall extend to all working places in which work is temporarily stopped within any ventilating district in which the men have to work.

The inspection shall be made with a locked safety lamp (*m*), except in the case of any mine in which inflammable gas has not been found within the preceding twelve months.

A report specifying where noxious or inflammable gas, if any, was found present, and what defects (if any) in roofs or sides, and what (if any) other source of danger were or was observed, shall be recorded without delay in a book to be kept at the mine for the purpose, and accessible to the workmen, and such report shall be signed by, and so far as the same does not consist of printed matter shall be in the handwriting of the person who made the inspection.

For the purpose of the foregoing provisions of this rule, two or more shifts succeeding one another without any interval are to be deemed to be one shift.

(ii.) As to inspection during shifts :—

A similar inspection shall be made in the course of each shift of all parts of the mine in which workmen are to work or pass during that shift, but it shall not be necessary to record a report of the same in a book : Provided that in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections shall be recorded in manner above required.

Inspection of machinery, &c. above and below ground.

Rule 5. A competent person or competent persons appointed by the owner agent or manager for the purpose, shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head gear, ropes, chains, and other similar appliances of the mine which are in actual use both above ground and below ground, and shall once at least in every week examine the state of the shafts by which persons ascend or descend ; and shall make a true report of the result of such examination, and every such report shall be recorded (*n*)

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(*m*) By the Coal Mines Regulation Act, 1896, s. 5, sub-s. (2), a safety lamp shall not be used in any mine, or part of a mine, unless it is the property of, or provided by, the owner of the mine, and no portion of any safety lamp shall be removed by any person from the mine while the lamp is in ordinary use.

(*n*) This rule requires a report to be recorded of the examination directed to be made once in every twenty-four hours, as well as

without delay in a book to be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Fencing of entrances.

Rule 6. Every entrance to any place which is not in actual use or course of working and extension, shall be properly fenced across the whole width of the entrance, so as to prevent persons inadvertently entering the same.

Withdrawal of workmen in case of danger.

Rule 7. If at any time it is found by the person for the time being in charge of the mine, or any part thereof (*o*), that by reason of inflammable gases prevailing in the mine, or that part thereof, or of any cause whatever, the mine or that part is dangerous, every workman shall be withdrawn from the mine or part so found dangerous (*p*), and a competent person appointed for the purpose shall inspect the mine or part so found dangerous, and if the danger arises from inflammable gas shall inspect the mine or part with a locked safety lamp; and in every case shall make a true report of the condition of the mine or part; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be readmitted into the mine, or part so found dangerous, until the same is stated by the person appointed as aforesaid not to be dangerous. Every such report shall be recorded in a book (*q*) which shall be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Use of safety lamps in certain places.

Rule 8. No lamp or light other than a locked safety lamp (*r*) shall be allowed or used—

(a.) In any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous; or

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of that directed to be made once in every week. (*Scott* v. *Bould*, Nov. 2, 1894; [1895] 1 Q. B. 9; 64 L. J. M. C. 16; 71 L. T. 577; 59 J. P. 370.)

(*o*) See sect. 19.

(*p*) "Part found dangerous," means such part of the mine as could be treated under the statute as a separate mine. (*Wales* v. *Thomas*, Nov. 6, 1885; L. R. 16 Q. B. D. 340; 50 J. P. 516.)

(*q*) See rule 37.

(*r*) By the Coal Mines Regulation Act, 1896, s. 5, sub-s. (2), *post*, p. 107, it is provided that a safety lamp shall not be used in any mine, or part of a mine, unless it is the property of, or provided by the owner of the mine, and no portion of any safety lamp shall be removed by any person from the mine while the lamp is in ordinary use.

(b.) In any working approaching near a place in which there is likely to be an accumulation of inflammable gas.

And when it is necessary to work the coal in any part of a ventilating district with safety lamps, it shall not be allowable to work the coal with naked lights in another part of the same ventilating district situated between the place where such lamps are being used and the return air-way.

Construction of safety lamps.

Rule 9. Wherever safety lamps are used, they shall be so constructed that they may be safely carried against the air current ordinarily prevailing in that part of the mine in which the lamps are for the time being in use, even though such current should be inflammable.

Examination of safety lamps.

Rule 10. In any mine or part of a mine in which safety lamps are required by this Act or by the special rules made in pursuance of this Act to be used—

(i) A competent person (*s*) appointed by the owner agent or manager for the purpose, shall, either at the surface or at the appointed lamp station, examine every safety lamp immediately before it is taken into the workings for use, and ascertain it to be in safe working order and securely locked; and such lamps shall not be used until they have been so examined and found in safe working order and securely locked:

(ii) A safety lamp shall not be unlocked except either at the appointed lamp station or for the purpose of firing a shot, in conformity with the provisions hereinafter contained:

(iii.) A person, unless he has been appointed either for the purpose of examining safety lamps or for the purpose of firing shots, shall not have in his possession any contrivance for opening the lock of any safety lamp:

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(*s*) Under sects. 10 and 22 of the Coal Mines Inspection Act, 1860 (23 & 24 Vict. c. 151), where the owner of a mine appointed a competent person to examine and lock the safety lamps required for use in the mine, but such person delivered out certain safety lamps to miners for use in the mine unlocked, it was held that, in the absence of any personal default on the part of the owner, he was not liable to a penalty in respect of the act of the person so employed by him. (*Dickinson* v. *Fletcher*, Nov. 17; 1873, L. R. 9 C. P. 1; 43 L. J. C. P. 58; 29 L. T. 540.)

(iv.) A person shall not have in his possession any lucifer match or apparatus of any kind for striking a light, except within a completely closed chamber attached to the fuse of the shot.

Rule 11. Where safety lamps are required to be used, the position of the lamp stations for lighting or re-lighting the lamps shall not be in the return air. Lamp stations.

Rule 12. Any explosive substance (*t*) shall only be used in the mine below ground as follows:— Use of explosives below ground.

(a.) It shall not be stored in the mine:

(b.) It shall not be taken into the mine, except in cartridges in a secure case (*u*) or canister containing not more than five pounds:

Provided that on the application of the owner agent or manager of any mine, the Secretary of State may by order exempt such mine from so much of this rule as forbids taking an explosive substance into the mine except in cartridges.

(c.) A workman shall not have in use at one time in any one place more than one of such cases or canisters:

(d.) In the process of charging or stemming for blasting, a person shall not use or have in his possession any iron or steel pricker, scraper, charger, tamping rod, or stemmer [and only clay or other non-inflammable substances shall be used for stemming, and shall be provided by the owner of the mine (*x*)].

(e.) No explosive shall be forcibly pressed into a hole

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(*t*) See Explosives Act, 1875 (38 & 39 Vict. c. 17).

By the Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43), s. 6, a Secretary of State on being satisfied that any explosive is or is likely to become dangerous, may, by order, of which notice shall be given in such manner as he may direct, prohibit the use thereof in any mine, or in any class of mines, either absolutely or subject to conditions, and the provisions of the principal Act as to contraventions of general rules shall apply to contraventions of any such prohibitions.

(*u*) It was held that the word "case" in the Metalliferous Mines Act, 1872 (35 & 36 Vict. c. 77), s. 23, must be taken to mean something solid and substantial in the nature of a canister, and that a bag of linen or calico was not such a "case." (*Foster* v. *Diphwys Casson Slate Co.*, Jan. 20, 1887; L. R. 18 Q. B. D. 428.)

(*x*) As amended by the Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43), s. 5, sub-s. (3), *post*, p. 107.

of insufficient size, and, when a hole has been charged, the explosive shall not be unrammed, and no hole shall be bored for a charge at a distance of less than six inches from any hole where the charge has missed fire:

(f.) In any place in which the use of a locked safety lamp is for the time being required by or in pursuance of this Act, or which is dry and dusty, no shot shall be fired except by or under the direction of a competent person appointed by the owner agent or manager of the mine, and such person shall not fire the shot or allow it to be fired until he has examined both the place itself where the shot is to be fired and all contiguous accessible places of the same seam within a radius of twenty yards, and has found such place safe for firing:

(g.) If in any mine, at either of the four inspections under Rule 4 recorded last before a shot is to be fired, inflammable gas has been reported to be present in the ventilating district in which the shot is to be fired, the shot shall not be fired—

(1.) Unless a competent person, appointed as aforesaid, has examined the place where gas has been so reported to be present, and has found that such gas has been cleared away, and that there is not at or near such place sufficient gas issuing or accumulated to render it unsafe to fire the shot; or

(2.) Unless the explosive employed in firing the shot is so used with water or other contrivance as to prevent it from inflaming gas, or is of such a nature that it cannot inflame gas:

(h.) If the place where a shot is to be fired is dry and dusty, then the shot shall not be fired unless one of the following conditions is observed, that is to say—

(1.) Unless the place of firing and all contiguous accessible places within a radius of twenty yards therefrom are at the time of firing in a wet state from thorough watering or other treatment equivalent to watering, in all parts where dust is lodged, whether roof, floor, or sides; or

(2.) In the case of places in which watering would injure the roof or floor, unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot inflame gas or dust:

(i.) If such dry and dusty place is part of a main haulage road, or is a place contiguous thereto, and showing dust adhering to the roof and sides, no shot shall be fired there unless—

(1.) Both the conditions mentioned in sub-head (h) have been observed; or

(2.) Unless such one of the conditions mentioned in sub-head (h) as may be applicable to the particular place has been observed, and moreover all workmen have been removed from the seam in which the shot is to be fired, and from all seams communicating with the shaft on the same level, except the men engaged in firing the shot, and such other persons, not exceeding ten, as are necessarily employed in attending to the ventilating furnaces, steam boilers, engines, machinery, winding apparatus, signals, or horses, or in inspecting the mine:

(k.) In this Act "ventilating district" means such part of a seam as has an independent intake commencing from a main intake air course, and an independent return airway terminating at a main return air course; and "main haulage road" means a road which has been, or for the time being is, in use for moving trams by steam or other mechanical power:

(l.) Where a seam of a mine is not divided into separate ventilating districts the provisions in this Act relating to ventilating districts shall be read as though the word "seam" were substituted for the words "ventilating district":

(m.) So much of this rule as requires the explosive substance taken into the mine to be in cartridges, and so much of the provisions of sub-head (f) as relates to a dry and dusty place, and the provisions (g), (h), (i), (k), and (l) shall not apply to seams of clay or stratified ironstone which are not worked in connection with any coal seam, and which contain no coal in the working.

Water and bore holes.

Rule 13. Where a place is likely to contain a dangerous accumulation of water, the working approaching that place shall not at any point within forty yards of that place exceed eight feet in width, and there shall be constantly kept at a sufficient distance, not being less than five yards, in advance, at least one bore-hole near the centre of the working, and sufficient flank bore-holes on each side.

Signalling and man-holes for travelling planes worked by machinery.

Rule 14. Every underground plane on which persons travel, which is self-acting or worked by an engine windlass or gin, shall be provided (if exceeding thirty yards in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane, and shall be provided in every case with sufficient man-holes for places of refuge, at intervals of not more than twenty yards, or if there is not room for a person to stand between the side of a tub and the side of the plane, then (unless the tubs are moved by an endless chain or rope) at intervals of not more than ten yards.

Man-holes for other travelling roads.

Rule 15. Every road on which persons travel underground where the load is drawn by a horse or other animal shall be provided, at intervals of not more than fifty yards, with sufficient man-holes, or with places of refuge, and every such place of refuge shall be of sufficient length, and at least three feet in width, between the waggons running on the road and the side of such road. There shall be at least two proper travelling ways into every steam engine room and boiler gallery.

Man-holes to be kept clear.

Rule 16. Every man-hole and every place of refuge shall be constantly kept clear, and no person shall place anything in any such man-hole or place of refuge.

Dimensions of travelling roads.

Rule 17. Every travelling road on which a horse or other draught animal is used underground shall be of sufficient dimensions to allow the horse or other animal to pass without rubbing against the roof or timbering.

Fencing of old shafts.

Rule 18. The top of every shaft which for the time being is out of use, or used only as an air shaft, shall be and shall be kept securely fenced.

Fencing of entrances to shafts.

Rule 19. The top and all entrances between the top and bottom, including the sump, if any, of every working ventilating or pumping shaft shall be properly fenced, but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used.

Securing of shafts.

Rule 20. Where the natural strata are not safe, every

working or pumping shaft shall be securely cased lined or otherwise made secure.

Rule 21. The roof and sides of every travelling road and working place shall be made secure, and a person shall not, unless appointed for the purpose of exploring or repairing, travel or work in any such travelling road or working place which is not so made secure. Securing of roofs and sides.

Rule 22. Where the timbering of the working places is done by the workmen employed therein, suitable timber shall be provided at the working place, gate end, pass bye, siding or other similar place in the mine convenient to the workmen, and the distance between the sprags or holing props where they are required (*y*) shall not exceed six feet or such less distance as may be ordered by the owner agent or manager. Timbering.

Rule 23. Where there is a downcast and furnace shaft to the same seam, and both such shafts are provided with apparatus in use for raising and lowering persons, every person employed in the mine shall, on giving reasonable notice, have the option of using the downcast shaft. Option of using downcast shaft.

Rule 24. In any mine which is usually entered by means of machinery, a competent male person not less than twenty-two years of age shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein, and shall attend for that purpose during the whole time that any person is below ground in the mine. Attendance of engineman.

Where any shaft, plane, or level is used for the purpose of communication from one part to another part of a mine, and persons are taken up or down or along such shaft, plane, or level by means of any engine, windlass, or gin, driven or worked by steam or any mechanical power, or by an animal, or by manual labour, the person in charge of such engine, windlass, or gin, or of any part of the machinery, ropes, chains, or tackle connected therewith must be a competent male person not less than eighteen years of age.

Where the machinery is worked by an animal, the person under whose direction the driver of the animal acts,

(*y*) "Where they are required" means where they are necessary, and not merely where the workmen think them necessary; whether they be necessary or not is a question of fact to be decided by the justices in each case. (*Gibbon* v. *Phillips*, Dec. 17, 1894; 64 L. J. M. C. 42.)

shall for the purposes of this rule, be deemed to be the person in charge of the machinery.

Means of signalling for working shafts.

Rule 25. Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall, if exceeding fifty yards in depth, and not exempted in writing by the inspector of the district, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft and from every entrance for the time being in use between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft.

Rule 26. If in any mine the winding apparatus is not provided with some automatic contrivance to prevent overwinding, then the cage, when men are being raised, shall not be wound up at a speed exceeding three miles an hour, after the cage has reached a point in the shaft to be fixed by the special rules.

Cover overhead.

Rule 27. A sufficient cover overhead shall be used for every cage or tub employed in lowering or raising persons in any working shaft, except where the cage or tub is worked by a windlass, or where persons are employed at work in the shaft, or where a written exemption is given by the inspector of the district.

Chains.

Rule 28. A single linked chain shall not be used for lowering or raising persons in any working shaft or plane except for the short coupling chain attached to the cage or tub.

Prevention of rope slipping on drum.

Rule 29. There shall be on the drum of every machine used for lowering or raising persons, such flanges or horns, and also if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping.

Break and indicator.

Rule 30. There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate break or breaks, and a proper indicator (in addition to any mark on the rope) showing to the person who works the machine the position of the cage or tub in the shaft.

If the drum is not on the crank shaft, there shall be an adequate break on the drum shaft.

Fencing machinery.

Rule 31. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and shall be kept securely fenced.

Rule 32. Each steam boiler, whether separate or one of a range, shall have attached to it a proper safety valve, and also a proper steam gauge and water gauge, to show respectively the pressure of steam and the height of water in each boiler. Safety valves and gauges for boilers.

Rule 33. A barometer and thermometer shall be placed above ground, in a conspicuous position near the entrance to the mine. Barometer, &c.

Rule 34. Where persons are employed underground, ambulances or stretchers, with splints and bandages, shall be kept at the mine ready for immediate use in case of accident. Stretchers.

Rule 35. No person shall wilfully damage, or without proper authority remove or render useless, any fence, fencing, manhole, place of refuge, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, break, indicator, steam gauge, water gauge, safety valve, or other appliance or thing provided in any mine in compliance with this Act. Wilful damage.

Rule 36. Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Act or the special rules in force in the mine. Observance of directions.

Rule 37. The books mentioned in these rules shall be provided by the owner agent or manager, and the books, or a correct copy thereof, shall be kept at the office at the mine, and any inspector under this Act, and any person employed in the mine or any one having the written authority of any inspector or person so employed, may at all reasonable times inspect and take copies of and extracts from any such books; but nothing in these rules shall be construed to impose the obligation of keeping any such book, or a copy thereof, for more than twelve months after the book has ceased to be used for entries therein under this Act. Books and copies thereof.

Any report by this Act required to be recorded in a book may be partly in print (including lithograph) and partly in writing (*a*).

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(*a*) The general rules contained in this section (sect. 49) which require the reports therein mentioned to be recorded in books are as follow:—

Rule 1 (*ante*, p. 66). *Monthly* reports as to ventilation (except at mines not required to have a certificated manager).

Rule 4 (*ante*, p. 67). *Daily* reports as to state of mine before the commencement of each shift (shifts without any interval

Periodical inspection on behalf of workmen.

Rule 38. The persons employed in a mine may from time to time appoint two of their number, or any two persons, not being mining engineers, who are practical working miners, to inspect the mine at their own cost, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner agent or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working places, return air-ways, ventilating apparatus, old workings, and machinery. Every facility shall be afforded by the owner agent and manager, and all persons in the mine for the purpose of the inspection, and the persons appointed shall forthwith make a true report of the result of the inspection, and that report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons who made the inspection; and if the report state the existence or apprehended existence of any danger, the owner agent or manager shall forthwith cause a true copy of the report to be sent to the inspector of the district.

Rule 39. No person not now employed as a coal or ironstone getter shall be allowed to work alone as a coal or ironstone getter in the face of the workings, until he has had two years' experience of such work under the supervision of skilled workmen, or unless he shall have been previously employed for two years in or about the face of the workings of a mine (*z*).

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between them being, however, for the purposes of this rule, regarded as one shift), such reports to be in the handwriting of the person who makes the inspection.

Rule 5 (*ante*, p. 68). *Daily* reports as to the state of the machinery, guides, and conductors, and *weekly* reports as to the state of the shaft. Every such report to be signed by the person who makes the inspection.

Rule 7 (*ante*, p. 69). Every report of the inspection of a mine after the withdrawal of workmen from it, or part of it, in consequence of its being found dangerous.

(*z*) By sect. 64, if it appears that a person has worked alone as a coal or ironstone getter, on his representation that he has had two years' experience of such work under the supervision of skilled workmen, or that he has been previously employed for two years in or about the face of the workings of a mine, and under the belief in good faith that he has had such experience, or has been so previously employed, the owner, agent, or manager of the mine, and employer, shall be exempted from any penalty, and the person who has so worked alone shall for the misrepresentation, be deemed guilty of an offence against this Act.

**50.** Every person who contravenes or does not comply with any of the general rules in this Act, shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with any of the said general rules in the case of any mine to which this Act applies, by any person whomsoever, the owner (*a*), agent (*a*), and manager shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine, to prevent such contravention or non-compliance (*b*). Penalty on non-compliance with rules.

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(*a*) See sect. 75 (*post*, p. 93) for definition of owner and agent. And see also *Baker* v. *Carter* (1878), L. R. 3 Exch. Div. 132.

(*b*) B. was the owner of a coal mine, and took no active part in the management of the coal mine, while a certificated manager, who had full charge, was convicted of permitting dangerous working near accumulated water. The rules had been duly posted up. *Held*, the justices were not wrong in dismissing summons against B. for the same offence, on the ground that B. had taken all reasonable means to prevent non-compliance. (*Bell* v. *Brace*, Feb. 10, 1891; 55 J. P. 535.)

Under sects. 10 and 22 of the Coal Mines Inspection Act, 1860 (23 & 24 Vict. c. 151), where the owner of a mine appointed a competent person to examine and lock the safety lamps required for use in the mine, but such person delivered out certain safety lamps to miners for use in the mine unlocked; it was held that in the absence of any personal default on the part of the owner, he was not liable to a penalty in respect of the act of the person so employed by him. (*Dickenson* v. *Fletcher*, Nov. 17, 1873; L. R. 9 C. P. 1; 43 L. J. C. P. 58; 29 L. T. 540.)

The agent of a mine subject to the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), may be convicted for breach of the regulations prescribed by sects. 51 & 52 of the Act (which correspond with sects. 49, 50 and 51 of this Act), although the mine is under the control of a duly certified manager, unless he gives evidence to show that he has to the best of his power enforced the said regulations. (*Wynne* v. *Forrester*, May 23, 1879; L. R. 5 C. P. D. 361; 48 L. J. M. C. 140; 40 L. T. 524; 43 J. P. 686.)

A limited company were the owners of a mine of which the respondent was managing director, a certificated manager had control of the working, and the respondent did not interfere with the management of the colliery, and was only consulted when any expenditure of capital was required. The rules and abstract of the Act were duly published in the said colliery. An offence having been committed by the use of naked lights in the mine, on a day when the respondent was not at the mine. *Held*, that respondent as managing director was "agent" of the mine, within the meaning of the Act, and was legally responsible as such; but that he had by publishing, and to the best of his power enforcing the rules and regulations for the working of the mine, taken all reasonable means within sect. 50, to prevent such contravention of the rules, and was, therefore, not liable to be convicted for the offence.

*Special Rules.*

Special rules for every mine.

**51.**—(1.) There shall be established in every mine such rules referred to in this Act as special rules (*c*) for the conduct and guidance of the persons acting in the management of such mine or employed in or about the mine as, under the particular state and circumstances of such mine, may appear best calculated to prevent dangerous accidents, and to provide for the safety convenience and proper discipline of the persons employed in or about the mine.

(2.) Such special rules, when established, shall be signed in duplicate by the inspector who is inspector of the district at the time the rules are established, and shall be observed in and about every such mine, (including any extension thereof) in the same manner as if they were enacted in this Act.

(3.) If any person who is bound to observe the special rules established for any mine, acts in contravention of or fails to comply with any of them (*d*), he shall be guilty of

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(*Stokes* v. *Checkland*, Feb. 2, 1893; 68 L. T. 457; 57 J. P. 232; 17 Cox, C. C. 631.)

The respondent was manager of a coal mine at a salary of 20*s.* per week. The ventilation was inadequate, and the inspector pointed out the proper remedy which involved an expenditure of £200. The respondent had advised the owners to make this outlay, but they did not approve it, and the respondent might, meanwhile, by means of canvas which he had in his possession, have improved the ventilation himself. *Held*, that as the respondent had not taken all the means in his power to improve the ventilation, he was liable under the rules, and the justices should have convicted him. (*Hall* v. *Hopwood*, Dec. 3, 1879; 44 J. P. 250.)

(*c*) It is provided by sect. 1, sub-sect. (2), of the Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43), that—While any special rules made under that section are in force in any mine, any general rule contained in sect. 49 of this Act, and any special rule established under this Act, shall, if and so far as it is inconsistent with any special rules made under that section, be suspended in relation to that mine.

(*d*) By a special rule made pursuant to the Mines Inspection Act, 1860 (23 & 24 Vict. c. 151), for regulating a certain coal mine, the charter-master was to be the responsible manager of the pit, and the banksman was to take care that the persons descending the pit should in no case exceed eight. Where a banksman violated such rule by lowering more than eight persons into the pit at one time, and there was evidence that the charter-master was close to the pit and cognizant of the banksman (who was his servant) so lowering more than eight persons down. *Held*, that such charter-master might be convicted of aiding and abetting the banksman to commit a violation of such rule. (*Howells* v. *Wynne*, June 23, 1863; 32 L. J. (N. S.) M. C. 241.)

an offence against this Act, and also the owner agent and manager of such mine shall each be guilty of an offence against this Act unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the rules as regulations for the working of the mine, so as to prevent such contravention or non-compliance.

Establishment of new special rules.

**52.**—(1.) The owner agent or manager of every mine shall frame and transmit to the inspector of the district,

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A special rule of a coal mine under the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), provided that the engine-tender shall not allow any person to be in the engine-house for any purpose, and shall not leave his engine in charge of any other person without authority of the manager, and shall be in attendance during the whole time that any person belonging to the shift on which he is working is below ground in the mine. The engineman was in charge, and a boy who oiled the boilers outside, was inside with leave of the manager, and such boy was caught by the fly-wheel and killed. *Held*, that the engineman was properly convicted for neglecting to observe the special rule, and that it was no defence that the manager allowed another person to be inside. (*Haywood* v. *Baker*, Nov. 8, 1876; 41 J. P. 533.)

By a special rule in force in a mine under the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), s. 52, no person employed in the works was to ascend the pit contrary to the direction of the hooker-on. In the said mine the workmen had power to discharge themselves at a moment's notice. The respondents were workmen employed in the said mine, and being dissatisfied with their working places, discharged themselves. They asked the hooker-on to allow them to ascend the pit, but he refused to do so until the ordinary time came for workmen to quit the mine; the respondents ascended, however, contrary to his direction. *Held*, that the respondents had been guilty of a breach of the special rule above mentioned. (*Higham* v. *Wright*, May 11, 1877; L. R. 2 C. P. D. 397; 46 L. J. M. C. 223; 37 L. T. 187; 41 J. P. 679.)

One of the special rules of a mine under the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), s. 52, required a banksman to be constantly present while the men were going up or down the shaft; but it was the regular practice of the mine not to have a banksman in attendance during the night. The plaintiff's husband, who was employed in the mine, well knew this. He was killed while coming out of the mine at night by an accident, arising through the absence of a banksman. In an action under the Employer's Liability Act, 1880—*Held*, that the defence arising from the maxim *volenti non fit injuria* was not applicable in cases where the injury arose from the breach of a statutory duty on the part of the employer, and that the plaintiff was entitled to recover. (*Baddeley* v. *Earl Granville*, July 12, 1887; L. R. 19 Q. B. D. 423; 56 L. J. Q. B. 501; 57 L. T. 268; 51 J. P. 882; 36 W. R. 63.)

for approval by a Secretary of State, special rules for the mine within three months after the commencement of this Act, or within three months after the commencement (if subsequent to the commencement of this Act) of any working for the purpose of opening a new mine or of renewing the working of an old mine.

(2.) The proposed special rules, together with a printed notice specifying that any objection to the rules on the ground of anything contained therein or omitted therefrom may be sent by any of the persons employed in the mine to the inspector of the district, at his address, stated in the notice, shall, during not less than two weeks before the rules are transmitted to the inspector, be posted up in like manner as is provided in this Act respecting the publication of special rules (*e*) for the information of persons employed in the mine, and a certificate that the rules and notice have been so posted up shall be sent to the inspector with two copies of the rules, signed by the person sending the same.

(3.) If the rules are not objected to by the Secretary of State within forty days after their receipt by the inspector, they shall be established.

Secretary of State may object to special rules.

**53.**—(1.) If the Secretary of State is of opinion that the proposed special rules so transmitted, or any of them, do not sufficiently provide for the prevention of dangerous accidents in the mine, or for the safety or convenience of the persons employed in or about the mine, or are unreasonable, he may, within forty days after the rules are received by the inspector, object to the rules, and propose to the owner agent or manager in writing any modifications (*f*) in the rules by way either of omission alteration substitution or addition.

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(*e*) As to publication of abstract of Act and special rules, see sect. 57.

(*f*) By the Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43), s. 1, sub-s. (1), it is provided that the power to propose, amend, and modify special rules for a mine under this Act, shall include powers with respect to any of the following matters:—

(a) the nature and description of the lights or lamps to be used in the mine, and their custody and the mode of using and trimming them; and

(b) the description of explosives to be used in the mine, the mode of using and of storing such explosives, and of

(2.) If the owner agent or manager does not, within twenty days after the modifications proposed by the Secretary of State are received by him, object in writing to them, the proposed special rules, with those modifications, shall be established.

(3). If the owner agent or manager sends his objection in writing within the said twenty days to the Secretary of State, the matter shall be referred to arbitration (*g*) under this Act, and the date of the receipt of the objection by the Secretary of State shall be deemed to be the date of the reference, and the rules shall be established as settled by an award on arbitration.

Amendment of special rules.

**54.**—(1.) After special rules are established under this Act in any mine, the owner agent or manager of the mine may from time to time propose, in writing, to the inspector of the district, for the approval of a Secretary of State, any amendment (*h*) of the rules or any new special rules, and the provisions of this Act with respect to the original special rules shall apply to all such amendments and new rules in like manner, as nearly as may be, as they apply to the original rules.

(2.) A Secretary of State may from time to time propose, in writing to the owner agent or manager of the mine any new special rules, or any amendment (*h*) of the special rules, and the provisions of this Act with respect to a proposal of a Secretary of State for modifying the special rules transmitted by the owner, agent, or manager of a mine shall apply to all such new special rules and amendments in like manner, as nearly as may be, as they apply to the proposal.

False statements, and

**55.** If the owner agent or manager of any mine makes

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making and stemming holes, and the times at which and the manner in which shots are to be fired in the mine; and

(c) the number or class of persons, if any, to be permitted to remain in the mine or any part thereof whilst shots are being fired; and

(d) the watering or efficient damping of the mine or any ways or places therein; and

(e) generally the precautions to be adopted for the prevention of accidents from inflammable gas and coal dust.

(*g*) As to arbitration under this Act, see s. 47.

(*h*) See Coal Mines Regulation Act, 1896 (59 & 60 Vict. c. 43), s. 1, sub-s. (1), *post*, p. 104.

neglect to transmit special rules.

any false statement with respect to the posting up of the rules and notices, he shall be guilty of an offence against this Act; and if special rules for any mine are not transmitted within the time limited by this Act to the inspector for the approval of a Secretary of State, the owner, agent, and manager of such mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means (*i*), by enforcing to the best of his power the provisions of this Act, to secure the transmission of the rules.

Certified copy of special rules to be evidence.

**56.** An inspector under this Act shall, when required, certify a copy which is shown to his satisfaction to be a true copy of any special rules, which for the time being are established under this Act in any mine, and a copy so certified shall be evidence (but not to the exclusion of other proof) of such special rules and of the fact that they are duly established under this Act, and have been signed by the inspector.

*Publication of Abstract of Act and of Special Rules.*

Publication of abstract of Act and copy of special rules.

**57.** For the purpose of making known the provisions of this Act and the special rules to all persons employed in and about each mine, an abstract of this Act supplied, on the application of the owner agent or manager of the mine, by the inspector of the district on behalf of a Secretary of State, and a correct copy of all the special rules shall be published as follows:

(1.) The owner agent or manager of the mine shall cause the abstract and copy of the rules, with the name of the mine and the name and address of the inspector of the district, and the name of the owner or agent, and of the manager appended thereto, to be posted up in legible characters, in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed; and so often as the same become defaced obliterated or destroyed, shall cause them to be renewed with all reasonable despatch:

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(*i*) See sects. 50, 59 and 60.

(2.) The owner agent or manager shall supply a printed copy of the abstract and the special rules gratis to each person employed in or about the mine who applies for a copy at the office at which the persons immediately employed by the owner, agent, or manager are paid:

(3.) Every copy of the special rules shall be kept distinct from any rules which depend only on the contract between the employer and employed.

In the event of any non-compliance with the provisions of this section by any person whomsoever, the owner agent and manager shall each be guilty of an offence against this Act; but the owner, agent, or manager of such mine shall not be deemed guilty if he proves that he had taken all reasonable means, by enforcing to the best of his power the observance of this section, to prevent such non-compliance (*k*).

Pulling down or defacing notices.

**58.** Every person who pulls down, injures, or defaces any abstract, notice, proposed special rules, or special rules when posted up in pursuance of the provisions of this Act, or any notice posted up in pursuance of the special rules, shall be guilty of an offence against this Act (*l*).

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(*k*) See sects. 50, 59 and 60.

Where special rules under the Mines Inspection Act, 1860 (23 & 24 Vict. c. 151), provided that "every workman is engaged subject to these rules and shall observe the same, and abide by the consequences of neglecting them, and shall receive a copy thereof from the manager, charter-master, or other person who may engage him," and upon an information against the appellant for disobeying the respondent, who was the charter-master under whose control the appellant was, contrary to the rules, there being no evidence that a copy of the said rules had been given to the appellant; it was contended that the delivery of a copy of such rules was a condition precedent to the respondent's right to enforce them. The justices convicted the appellant. *Held*, that they were warranted by law in so doing. (*Higginson* v. *Hapley*, Jan. 27, 1869; 19 L. T. N. S. 690.)

(*l*) See sects. 50, 59 and 60.

## PART III.

### Supplemental.

### *Legal Proceedings.*

Penalty for offences against Act.

**59.**—(1.) Every person employed in or about a mine, other than an owner agent or manager, who is guilty of any act or omission, which in the case of an owner agent or manager would be an offence against this Act, shall be deemed to be guilty of an offence against this Act.

(2.) Every person who is guilty of an offence against this Act for which a penalty is not expressly prescribed, shall be liable to a fine not exceeding, if he is an owner agent or manager or under-manager, twenty pounds, and if he is any other person, two pounds, for each offence; and if an inspector has given written notice of any such offence, to a further fine not exceeding one pound for every day after such notice that such offence continues to be committed (*m*).

Imprisonment for wilful neglect endangering life or limb.

**60.** Where a person who is an owner agent manager or under-manager of or a person employed in or about a mine is guilty of any offence against this Act which, in the opinion of the Court that tries the case, is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine, or to cause serious personal injury to any of such persons, or to cause a dangerous accident, and was committed wilfully by the personal act, personal default, or personal negligence of the person accused, such person shall be liable, if the Court is of opinion that a fine will not meet the circumstances of the case, to imprisonment, with or without hard labour, for a period not exceeding three months (*n*).

Summary proceedings for offences, fines, &c.

**61.**—(1.) All offences under this Act not declared to be misdemeanours, and all fines under this Act, and all money and costs by this Act directed to be recovered as fines, may be prosecuted and recovered in manner directed

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(*m*) As to appeal to quarter sessions, see sect. 63.
As to appeal in Scotland, see sect. 67, sub-s. (5).
(*n*) As to appeal, see sect. 63.

by the Summary Jurisdiction Acts (*o*) before a Court of Summary Jurisdiction.

(2.) Proceedings for the removal of a check weigher shall be deemed to be a matter on which a Court of summary jurisdiction has authority by law to make an order in pursuance of the Summary Jurisdiction Acts; and summary orders under this Act may be made on complaint before a Court of Summary Jurisdiction (*p*) in manner provided by the Summary Jurisdiction Acts (*q*).

General provisions as to summary proceedings.

**62.** In every part of the United Kingdom the following provisions shall have effect:

(i.) Any complaint or information made or laid in pursuance of this Act shall (save as otherwise expressly provided by this Act) be made or laid within three months from the time when the matter of the complaint or information arose:

(ii.) Any person charged with any offence under this Act, may, if he thinks fit, be sworn and examined as an ordinary witness in the case:

(iii.) The Court shall, if required by either party, cause minutes of the evidence to be taken and preserved.

Appeal to

**63.** If any person feels aggrieved by any conviction

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(*o*) By sect. 67, in Scotland the Court of Summary Jurisdiction, when hearing and determining an information or complaint, shall be the sheriff. By sect. 76, the term "sheriff" includes sheriff substitute.

By sect. 75, in the application of this Act to Ireland—(a) the expression "the Summary Jurisdiction Acts" means, as regards the Dublin metropolitan police district, the Acts regulating the powers and duties of justices of the peace and of the police of that district, and elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same; (b) in hearing and determining a charge under this Act, a Court of Summary Jurisdiction elsewhere than in the Dublin metropolitan police district, shall be constituted of two or more justices of the peace or of a resident magistrate, with or without other justices sitting in petty sessions; and a resident magistrate means a magistrate appointed pursuant to the 6 & 7 Will. 4, c. 14.

(*p*) See sect. 50 of Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), and sect. 7 of the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 43).

(*q*) 11 & 12 Vict. c. 43; 20 & 21 Vict. c. 43, and 42 & 43 Vict. c. 49.

quarter sessions.

made by a Court of Summary Jurisdiction on determining any information under this Act, by which conviction imprisonment or a fine amounting to or exceeding one-half the maximum fine, is adjudged, he may appeal (*r*) therefrom to a Court of Quarter Sessions in manner provided by the Summary Jurisdiction Acts (*s*).

Liability for misrepresentation as to age, &c.

**64.** If it appears that a boy or girl was employed on the representation of his or her parent or guardian that he or she was of the age at which his or her employment would not be in contravention of this Act, and under the belief in good faith that he or she was of that age, or that a person has worked alone as a coal or ironstone getter on his representation that he has had two years' experience of such work under the supervision of skilled workmen, or that he has been previously employed for two years in or about the face of the workings of a mine (*t*), and under the belief in good faith that he has had such experience or has been so previously employed, the owner agent or manager of the mine and employer shall be exempted from any penalty, and the parent or guardian or the person who has so worked alone, as the case may be, shall, for the misrepresentation, be deemed guilty of an offence against this Act (*u*).

Prosecution of owners agents managers, &c.

**65.** No prosecution shall be instituted against the owner agent manager or under-manager of a mine for any offence under this Act, not committed personally by such owner agent manager or under-manager, which can be prosecuted before a Court of Summary Jurisdiction, except by an inspector, or with the consent in writing of a Secretary of State; and in the case of any offence of which the owner agent manager or under-manager of a mine is not guilty if he proves that he had taken all reasonable means to prevent the commission thereof, an inspector shall not institute any prosecution against such owner agent manager or under-manager, if satisfied that he had taken such reasonable means as aforesaid. No prosecution shall

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(*r*) As to procedure on appeal to quarter sessions, notice, &c., see Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 31.
(*s*) As to appeal in Scotland, see sect. 67, sub-s. (5).
(*t*) See sect. 49, rule 39.
(*u*) See sect. 50.

be instituted against a coroner for any offence under this Act except with the consent in writing of a Secretary of State.

Report of result of proceedings against workmen.

**66.** Where the owner agent or manager of a mine has taken proceedings under this Act against any person employed in or about a mine in respect of an offence committed under this Act, he shall, within twenty-one days after the hearing of the case, report the result thereof to the inspector of the district.

Summary proceedings for offences in Scotland.

**67.** In Scotland the following provisions shall have effect:

(1.) The court of summary jurisdiction when hearing and determining an information or complaint shall be the sheriff:

(2.) All jurisdictions powers and authorities necessary for the court of summary jurisdiction under this Act are hereby conferred on that court:

(3.) Every person found liable under this Act by a court of summary jurisdiction in any fine, or to pay any money or costs by this Act directed to be recovered as fines, shall be liable in default of immediate payment to be imprisoned for a term not exceeding three months, and the conviction and warrant may be in the form of No. 3 of Schedule K. of the Summary Procedure Act, 1864: 27 & 28 Vict. c. 53.

(4.) Any fine exceeding fifty pounds shall be recovered and enforced in the same manner in which any penalty due to her Majesty under any Act of Parliament may be recovered and enforced:

(5.) An appeal shall not lie from any conviction made by a sheriff, save to the next circuit court, or where there are no circuit courts, to the High Court of Justiciary at Edinburgh, in the manner prescribed by such of the provisions of the Act of the twentieth year of the reign of King George the Second, chapter forty-three, and any Acts amending the same, as relate to appeals in matters criminal, and by and under the rules limitations conditions and restrictions contained in the said provisions.

Saving for proceedings under other Acts.

**68.**—(1.) Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, so, however, that no person be punished twice for the same offence.

(2.) If the Court before whom a person is charged with an offence under this Act think that proceedings ought to be taken against such person for such offence under any other Act or otherwise, the Court may adjourn the case to enable such proceedings to be taken.

Owner of mine, &c. not to act as justice, &c. in proceedings under this Act.

**69.** A person who is the owner agent or manager of any mine, or a miner or miner's agent, or the father son or brother, or father-in-law, son-in-law, or brother-in-law, of such owner agent or manager, or of a miner or miner's agent, or who is a director of a company being the owner of a mine, shall not, except with the consent of both parties to the case, act as a court or member of a court of summary jurisdiction in respect of any offence under this Act.

Application of fines.

**70.** Where a fine is imposed under this Act for neglecting to send a notice of any explosion or accident or for any offence against this Act which has occasioned loss of life or personal injury, a Secretary of State may (if he thinks fit) direct such fine to be paid to or distributed among the persons injured, and the relatives of any persons whose death may have been occasioned by the explosion accident or offence, or among some of them.

Provided that—

(i.) Such persons did not in his opinion occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to committing the offence:

(ii.) The fact of the payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequential on the explosion, accident, or offence.

Save as aforesaid—

All fines recovered in England or Scotland under this Act shall be paid into the receipt of her Majesty's Exchequer, and shall be carried to the Consolidated Fund;

All fines recovered in Ireland under this Act shall be

applied in manner directed by the Fines Act (Ireland), 1851, and any Act amending the same. 14 & 15 Vict. c. 90.

*Miscellaneous.*

**71.** If any question arises (otherwise than in legal proceedings) whether a mine is a mine to which this Act or the Metalliferous Mines Regulation Act, 1872 (*x*), or any other Act for the time being in force and relating to metalliferous mines applies, the question shall be referred to a Secretary of State, whose decision thereon shall be final. Decision of question whether a mine is under this Act.

**72.** Any order of or exemption granted by a Secretary of State under this Act (*y*) may be made, and from time to time revoked, or altered by a Secretary of State, either unconditionally or subject to such conditions as he may see fit, and shall be signed by a Secretary of State or under secretary or assistant under secretary. Powers of Secretary of State as to making and revoking orders.

**73.** All notices (*z*) under this Act shall (unless expressly Service of notices.

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(*x*) 35 & 36 Vict. c. 77.

(*y*) Orders for exemption referred to in sects. 7, 12 (3), 18, 49, rule 12 (b). See sect. 84 as to exemptions granted before the commencement of this Act.

(*z*) The sections requiring notices to be sent are:—

(16, sub-s. (4).) of intention to apply for injunction to enforce compliance with the section being given to owner, agent, or manager, not less than ten days before application is made.
(19.) to inspector of district of division of mine into parts.
(20.) to inspector of district of manager's name and address.
(34.) by inspector requiring owner, agent, or manager to cause an accurate plan and section to be made.
(35.) to inspector of accidents in mines.
(38.) to owner of mine to comply with requirements of section.
(42.) by inspector of causes of danger not expressly provided against.
(47.) notice of appointment of arbitrator.
(48.) by coroner of time and place of holding adjourned inquest.
(52, sub-s. (2).) that objection may be made to special rules (this must be printed).
(59.) by inspector of offence against the Act.
(66.) to inspector of result of proceedings against workmen.

By sect. 6 of the Coal Mines Regulation Act, 1896, a Secretary of State, on being satisfied that any explosive is or is likely to become dangerous, may by order, of which notice shall be given in such manner as he may direct, prohibit the use thereof in any mine, or in any class of mines, either absolutely or subject to conditions.

required to be in print) be in either writing or print (including lithograph), or partly in writing and partly in print (including lithograph), and all notices and documents required by this Act to be served or sent by or to an inspector may be either delivered personally, or served and sent by post by a prepaid letter; and, if served or sent by post, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post.

Application of 38 & 39 Vict. c. 55, s. 38.

**74.** Section thirty-eight of the Public Health Act, 1875 (*a*) (which relates to privy accommodation for any house used as a factory or building in which both sexes are employed), shall apply to the portions of a mine which are above ground, and in which girls and women are employed, in like manner as if it were herein re-enacted with the substitution of "those portions of the mine" for the house in the said section mentioned.

Interpretation of terms.

**75.** In this Act, unless the context otherwise requires,—

"Mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels,

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(*a*) Sect. 38 of the Public Health Act, 1875, is as follows:—

*Privy accommodation for factories*—"Where it appears to any local authority, by the report of their surveyor, that any house is intended to be used as a factory or building in which persons of both sexes are employed or intended to be employed at one time in any manufacture, trade, or business, the local authority may, if it think fit, by a written notice require the owner or occupier of such house, within the time therein specified, to construct a sufficient number of water-closets, earth-closets, or privies, and ashpits for the separate use of each sex. Any person who neglects or refuses to comply with any such notice shall be liable for each default to a penalty not exceeding twenty pounds, and to a further penalty not exceeding forty shillings for every day during which the default is continued."

By sect. 76, in the application of this Act to Scotland, sect. 41 of the Public Health (Scotland) Act, 1867, shall be substituted for sect. 38 of the Public Health Act, 1875.

By sect. 77, in the application of this Act to Ireland, sect. 48 of the Public Health (Ireland) Act, 1878, shall be substituted for sect. 38 of the Public Health Act, 1875.

planes, works, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to the mine:

"Shaft" includes pit:

"Plan" includes a correct copy or tracing of any original plan:

"Owner" (*b*), when used in relation to any mine, means any person or body corporate who is the immediate proprietor or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or licence for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability:

"Agent" (*c*), when used in relation to any mine, means any person appointed as the representative of the owner in respect of any mine, or of any part thereof, and as such superior to a manager appointed in pursuance of this Act:

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(*b*) For cases as to "owner," see *Stoll* v. *Dickinson* (Feb. 17, 1876; 34 L. T. 291); *Evans* v. *Mostyn* (April 20, 1877; L. R. 2 C. P. D. 547; 47 L. J. M. C. 25); *Baker* v. *Carter* (1878) (L. R. 3 Exch. Div. 132); *Arkwright* v. *Evans* (Feb. 27, 1880; 49 L. J. M. C. 82).

(*c*) In *Stokes* v. *Mellor*, Nov. 17, 1875; 39 J. P. 788, a coal mine was the property of a limited company and was worked by them; the respondent was the managing director of the company, and its engineer, who resided in London, and whenever occasion required and he was requested by the directors, visited the colliery, and had, as engineer, the general care and supervision of the mine; but all matters connected with the working of the mine were managed by a certificated manager, and it was his duty, and when there was no certificated manager it was the duty of the respondent, to make all such reports and communications to the government inspector of mines for the district as were required by the Coal Mines Regulation Act. An information having been laid against the respondent under the Coal Mines Regulation Act, 1872 (35 & 36 Vict. c. 76), for neglect as "agent" to appoint an inspector as to ventilation during a vacancy in the office of manager of the mine, it was *held*, that he was "an agent" within the meaning of the Act, and liable to be proceeded against for breach of that Act.

"Secretary of State" means one of Her Majesty's Principal Secretaries of State:
"The Treasury" means the Commissioners of Her Majesty's Treasury:
"Boy" means a male under the age of sixteen years:
"Girl" means a female under the age of sixteen years:
"Woman" means a female of the age of sixteen years or upwards.

Application of Act to Scotland.

**76.** In the application of this Act to Scotland—
(1.) The term "Attorney-General" means the Lord Advocate:
(2.) The term "injunction" means interdict:
(3.) The term "misdemeanour" means crime and offence:
(4.) The term "chairman of quarter sessions" means the sheriff of the county:
(5.) The term "sheriff" includes sheriff substitute:
(6.) The term "attending on subpœna before a court of record" means attending on citation the Court of Justiciary:
(7.) The auditor of the sheriff court of the county or district of a county in which any inquiry takes place, shall perform the duties of a master of one of the superior courts under this Act:
(8.) "County Court judge, police magistrate, stipendiary magistrate, recorder, or registrar of a County Court," means a sheriff or sheriff substitute:
(9.) Notices of explosions, accidents, loss of life, or personal injury, shall be deemed to be sent to the inspector of the district on behalf of the Lord Advocate:
30 & 31 Vict. c. 100.
(10.) Sections forty-one and sixteen of the Public Health (Scotland) Act, 1867, shall respectively be substituted for sections thirty-eight and ninety-one of the Public Health Act, 1875:
(11.) The term "public elementary school" means State-aided school.

Nothing in this Act shall affect any provision in the Education (Scotland) Acts, 1872 to 1883.

Application of Act to Ireland.

**77.** In the application of this Act to Ireland,—
(a) The expression "the Summary Jurisdiction Acts" means, as regards the Dublin metropolitan police

district, the Acts regulating the powers and duties of justices of the peace and of the police of that district, and elsewhere, in Ireland, the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same:

(b) In hearing and determining a charge under this Act, a court of summary jurisdiction elsewhere than in the Dublin metropolitan police district, shall be constituted of two or more justices of the peace or of a resident magistrate, with or without other justices, sitting in petty sessions; and a resident magistrate means a magistrate appointed pursuant to the Act of the session of the sixth and seventh years of the reign of King William the Fourth, chapter fourteen:

(c) Sections forty-eight and one hundred and seven of the Public Health (Ireland) Act, 1878, shall respectively be substituted for sections thirty-eight and ninety-one of the Public Health Act, 1875: 41 & 42 Vict. c. 52.

(d) The expression "police or stipendiary magistrate" means resident magistrate:

"Master of one of Her Majesty's Superior Courts" means a taxing master of the High Court of Justice in Ireland:

"Registrar of a County Court" means clerk of the peace:

"London Gazette" means Dublin Gazette:

"Attorney-General" means Attorney-General for Ireland:

"Chairman of quarter sessions" means County Court judge.

*Transitory Provisions and Repeal.*

Existing inspectors and examining boards continued.

**78.** The persons who at the commencement of this Act are acting as inspectors under the Acts hereby repealed, and the boards for appointing examiners for managers' certificates under those Acts, shall continue to act in the same manner, and generally to be in the same position, as if they had been respectively appointed under this Act.

Existing certificates

**79.** All orders made by a Secretary of State under any

and registers continued.

Act repealed by this Act, which are in force immediately before the commencement of this Act, shall be deemed to have been made under this Act (*d*); and all certificates of competency or of service granted under any Act repealed by this Act which are in force immediately before the commencement of this Act, shall be deemed to be first class certificates granted under this Act; and the register of holders of certificates, and the other registers which at the commencement of this Act are kept in pursuance of the Acts hereby repealed, shall be deemed to be registers or parts of registers kept in pursuance of this Act.

Grant of certificates of service in case of certain under managers.

**80.**—(1.) A certificate of service shall be granted by a Secretary of State to every person who satisfies him either that before the passing of this Act he was exercising, and has since that date exercised, or that he has at any time within five years before the passing of this Act for a period of not less than twelve months exercised, functions substantially corresponding to those of an under manager in a mine.

(2.) Every such certificate of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered, and a certificate of service may be refused to any person who fails to give a full and satisfactory account of the particulars aforesaid, or to pay such registration fee as the Secretary of State may direct, not exceeding that mentioned in the Second Schedule to this Act.

(3.) A certificate of service granted under this section shall have the same effect for the purposes of this Act as a second class certificate of competency granted under this Act.

Existing special rules continued.

**81.** The special rules which at the commencement of this Act are in force under any Act hereby repealed in any mine shall continue to be the special rules in such mine until special rules are established under this Act for such mine, and while they so continue shall be of the same force as if they were established under this Act.

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(*d*) See *Dickinson* v. *Handsley* (Mar. 6, 1889; 60 L. T. 567; 53 J. P. 676).

Temporary saving for employment of boys and girls between ten and twelve.

**82.** The provisions of this Act shall not—

(a.) Prevent a boy under the age of twelve years who, before the commencement of this Act, is lawfully employed in any mine below ground from continuing to be employed in a mine; nor

(b.) Prevent a boy or girl who, before the commencement of this Act, is lawfully employed above ground in connexion with any mine from continuing to be employed above ground in connexion with a mine; nor

(c.) Prevent a competent male person above the age of eighteen years who before the commencement of this Act is lawfully employed in working the machinery used for lowering and raising persons in a mine from continuing to be so employed;

in like manner and subject to the same provisions and regulations as before the commencement of this Act, and the provisions of the Acts repealed by this Act, with respect to the employment of such boy or girl or competent male person shall continue to apply accordingly.

Construction of references to repealed Acts.

**83.** Any enactment or document referring to any Act repealed by this Act, or to any enactment thereof, shall be construed to refer to this Act, and to the corresponding enactments thereof.

Repeal of Acts.

**84.** The Acts described in Schedule Four to this Act are hereby repealed.

Provided that this repeal shall not affect any exemption granted, or other thing done or suffered before the commencement of this Act; and all offences committed and penalties incurred and proceedings commenced before the commencement of this Act may be punished recovered continued and completed in the same manner as if this Act had not passed.

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## Schedules.

### SCHEDULE ONE.

Section 24.

Proceedings of Board for Examinations.

1. The board shall meet for the despatch of business, and shall from time to time make such regulations with respect to the summoning notice place management and adjournment of such meetings, and generally with respect to the transaction

and management of business, including the quorum at meetings of the board, as they think fit, subject to the following conditions:—

(a.) Any regulations made by the board constituted under the Acts repealed by this Act, and in force at the commencement of this Act, shall continue in force till repealed or altered by the board;

(b.) An extraordinary meeting may be held at any time on the written requisition of three members of the board addressed to the chairman;

(c.) The quorum to be fixed by the board shall consist of not less than three members;

(d.) Every question shall be decided by a majority of votes of the members present and voting on that question;

(e.) The names of the members present, as well as those voting upon each question, shall be recorded;

(f.) No business shall be transacted unless notice in writing of such business has been sent to every member of the board seven days at least before the meeting.

2. The board shall from time to time appoint some person to be chairman, and one other person to be vice-chairman.

3. If at any meeting the chairman is not present at the time appointed for holding the same, the vice-chairman shall be the chairman of the meeting, and if neither the chairman nor vice-chairman shall be present, then the members present shall choose some one of their number to be chairman of such meeting.

4. In case of an equality of votes at any meeting, the chairman for the time being of such meeting shall have a second or casting vote.

5. The appointment of an examiner may be made by a minute of the board signed by the chairman.

6. The board shall keep minutes of their proceedings, which may be inspected or copied by a Secretary of State, or any person authorized by him to inspect or copy the same.

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Sections 25 and 30.

## SCHEDULE TWO.

TABLE of MAXIMUM FEES to be paid in respect of CERTIFICATES.

*First Class Certificate.*

| | |
|---|---|
| By an applicant for examination..... | Two pounds. |
| For copy of certificate ..... | Five shillings. |

*Second Class Certificate.*

| | |
|---|---|
| By an applicant for examination..... | One pound. |
| For copy of certificate ..... | Two shillings and sixpence. |

## SCHEDULE THREE.

Coal Mines Regulation Act, 1887 (50 & 51 Vict. c. 58). Section 33.

### Form of Return.

*This Form to be correctly filled up by the Owner, Agent, or Manager, and sent to the Inspector of the District, on behalf of the Secretary of State, on or before 21 January, every year.*

### Part A.

Year ending 31 December, 18 .

Name of Mine_____

Situation of Mine_____

County_____

Name of Owner (Company)_____

Name of Manager_____

Name of Under Manager_____

Postal Address_____

Return of Persons ordinarily employed during the Year:—

| | | |
|---|---|---|
| Under ground ..... | Boys of 12 and under 16 ..... | |
| | Males above 16 ..... | |
| | Total under ground ..... | |
| Above ground (including those employed on sidings and private branch railways and tramways, and in cleaning, washing, and coking of coal). | Boys of 12 and under 13 ..... | |
| | Girls do. ..... | |
| | Boys of 13 and under 16 ..... | |
| | Girls do. ..... | |
| | Females above 16 ..... | |
| | Males do. ..... | |
| | Total above ground ..... | |
| | Total number of persons employed under ground and above ground .... | |

QUANTITY of MINERAL wrought during the Year.

| Mineral Wrought. | Number of Statute Tons Wrought. |
|---|---|
| Coal ..... | ..... |
| Fireclay ..... | ..... |
| Ironstone ..... | ..... |
| Shale—oil shale ..... | ..... |
| Do. used for other purposes ..... | ..... |
| Copperas lumps, or iron pyrites ..... | ..... |
| Other minerals, viz.:— | |
| | |
| | |
| | |

The NUMBER of DAYS in each MONTH on which COAL or IRONSTONE has been drawn.

| | Number of Days on which was drawn | |
|---|---|---|
| | 1. Coal. | 2. Ironstone. |
| January ..... | | |
| February ..... | | |
| March ..... | | |
| April ..... | | |
| May ..... | | |
| June ..... | | |
| July ..... | | |
| August ..... | | |
| September ..... | | |
| October ..... | | |
| November ..... | | |
| December ..... | | |

day of 18 .

(Signed)_____.

[PART B.

PART B.

Name of the Mine_____

| Name of Seam. | Mode of Ventilation, with Description. | Diameter and Depth of downcast and upcast Shafts. | | | | Number of Splits and Quantity. | | Airways. | | Average Total Quantity of fresh Air per minute. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Downcast. | | Upcast. | | | | Length of Splits. | Sectional Area. | |
| | | Diameter in feet. | Depth in feet. | Diameter in feet. | Depth in feet. | Splits. | Quantity in cubic feet per minute. | Yards. | Square Feet. | Cubic Feet. |
| | | | | | | | | | | |

## SCHEDULE FOUR.

Section 84.

REPEAL.

| Date of Act. | Title of Act. | Extent of Repeal. |
|---|---|---|
| 35 & 36 Vict. c. 76 [1872]. | The Coal Mines Regulation Act, 1872. | The whole Act. |
| 44 & 45 Vict. c. 26 [1881]. | The Stratified Ironstone Mines (Gunpowder) Act, 1881. | The whole Act. |
| 49 & 50 Vict. c. 40 [1886]. | The Coal Mines Act, 1886.... | The whole Act. |

# THE COAL MINES (CHECK WEIGHER) ACT, 1894.

[57 & 58 Vict. c. 52.]

*An Act to amend the Provisions of the Coal Mines Regulation Act*, 1887, *with respect to Check Weighers.* [25th August 1894.]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Penalty for interference with office of check weigher.

**1.** If the owner, agent, or manager (*a*) of any mine, or any person employed by or acting under the instructions of any such owner, agent, or manager, interferes with the appointment of a check weigher (*b*), or refuses to afford proper facilities for the holding of any meeting for the purpose of making such appointment, in any case in which the persons entitled to make the appointment do not possess or are unable to obtain a suitable meeting place, or attempts, whether by threats, bribes, promises, notice of dismissal, or otherwise howsoever, to exercise improper influence in respect of such appointment, or to induce the persons entitled to appoint a check weigher, or any of them, not to re-appoint a check weigher, or to vote for or against any particular person or class of persons in the appointment of a check weigher, such owner, agent, or manager shall be guilty of an offence against the Coal Mines Regulation Act, 1887 (*c*).

50 & 51 Vict. c. 58.

Short title.

**2.** This Act may be cited as the Coal Mines (Check Weigher) Act, 1894.

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(*a*) For definition of these terms, see Coal Mines Regulation Act, 1887 (50 & 51 Vict. c. 58), s. 75, *ante*, p. 93.

(*b*) The mode of appointing a check weigher is regulated by sect. 13 of the Act of 1887.

As to removal of a check weigher by the owner, see sect. 13, sub-s. (4), and sect. 61, sub-s. (2), of the Act of 1887.

(*c*) See sect. 59 of the Act.

# THE COAL MINES REGULATION ACT, 1896.

## [59 & 60 Vict. c. 43.]

*An Act to amend the Coal Mines Regulation Act, 1887*(*a*). [14th August, 1896.]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Special rules. 50 & 51 Vict. c. 58.

**1.**—(1.) The power to propose, amend, and modify special rules for a mine under the Coal Mines Regulation Act, 1887 (in this Act referred to as the principal Act), shall include powers with respect to any of the following matters :—

(a.) The nature and description of the lights or lamps to be used in the mine, and their custody and the mode of using and trimming them ; and

(b.) The description of explosives to be used in the mine, the mode of using and of storing such explosives, and of making and stemming holes, and the times at which and the manner in which shots are to be fired in the mine ; and

(c.) The number or class of persons, if any, to be permitted to remain in the mine or any part thereof whilst shots are being fired ; and

(d.) The watering or efficient damping of the mine or any ways or places therein ; and

(e.) Generally the precautions to be adopted for the prevention of accidents from inflammable gas and coal dust.

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(*a*) For summary of alterations effected by this Act, see Introduction, *ante*, p. 24.

(2.) While any special rules made under this section are in force in any mine, any general rule contained in section forty-nine of the principal Act (*b*), and any special rule established under the principal Act, shall, if and so far as it is inconsistent with any special rules made under this section, be suspended in relation to that mine.

Representation of workmen on arbitration.

**2.** Where any matter in difference is referred to arbitration under the principal Act, a majority of the workmen employed in the mine to which the arbitration relates, may, on giving such security, if any, as may appear to the arbitrators or umpire sufficient to provide for the costs occasioned by such representation, appoint any person to represent the workmen, or any class of them, on the arbitration (*c*), and any person so appointed shall be entitled to attend and take part in the proceedings of the arbitration to such extent and in such manner as the arbitrators or umpire may direct, and be subject to the same liability with respect to costs so occasioned as if he were a party to the arbitration.

Plan of mine in working.

**3.** The plan required to be kept in pursuance of section thirty-four of the principal Act (*d*) shall show the position of the workings therein mentioned with regard to the surface, and the position, extension, and direction of every known fault or dislocation of the seam with its vertical throw.

Plan of abandoned mine.

**4.**—(1.) For subsections (1) and (2) of section thirty-eight of the principal Act shall be substituted the following subsections :—

"(1.) Where any mine or seam is abandoned, the person who is owner of the mine or seam at the time of its abandonment shall, within three months after the abandonment, send to a Secretary of State :

(i.) An accurate plan of the mine or seam, being either the original working plan or an

(*b*) *Ante*, p. 66.

(*c*) This is entirely new, and for the first time enables the workman to take part in an arbitration under the Coal Mines Acts.

(*d*) *Ante*, p. 49.

accurate copy thereof made by a competent draftsman, and showing—

(a) the boundaries of the workings of the mine or seam, including not only the working faces but also all headings in advance thereof (*e*), up to the time of the abandonment;

(b) the pillars of coal or other mineral remaining unworked (*f*);

(c) the position, direction, and extent of every known fault or dislocation of the seam with its vertical throw (*g*);

(d) the position of the workings with regard to the surface boundary;

(e) the general direction and rate of dip of the strata; and

(f) a statement of the depth of the shaft from the surface to the seam abandoned (*h*); and

(ii.) A section of the strata sunk through, or, if that is not reasonably practicable, a statement of the depth of the shaft with a section of the seam.

"Every such plan must be on a scale of not less than that of the ordnance survey of twenty-five inches to the mile, or on the same scale as the plan used at the mine at the time of its abandonment, and its accuracy must be certified (*i*), so far as is reasonably practicable, by a surveyor or other person approved in that behalf by an inspector of mines.

"(2.) The plan and section shall be preserved under the care of the Secretary of State; but no person, except an inspector under this Act, shall be entitled, without the consent of the owner of the mine or seam, or the licence of a Secretary of

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(*e*) The words "all headings in advance thereof" are new.
(*f*) This is new.
(*g*) This is new.
(*h*) These words "from the surface to the seam abandoned" are new.
(*i*) This is new.

State (*k*), to see the plan when so sent until after the expiration of ten years from the time of the abandonment. Provided that such licence shall not be granted unless the Secretary of State is satisfied that the inspection of such plan is necessary in the interests of safety."

(3.) The High Court, or, in Scotland, the Court of Session, may, on application by or on behalf of the Secretary of State, make an order requiring any person who has, for the time being, the custody or possession of any plan or section of an abandoned mine or seam to produce it to the Secretary of State for the purpose of inspection or copying.

Amendment of general rules as to lamps, inspection, and tamping.

**5.**—(1.) The inspection before the commencement of work required by Rule 4 (i) contained in section forty-nine of the principal Act, shall extend to all working places in which work is temporarily stopped within any ventilating district in which the men have to work.

(2.) A safety lamp shall not be used in any mine or part of a mine by any person employed therein unless it is provided by the owner of the mine, and no portion of any safety lamp shall be removed by any person from the mine while the lamp is in ordinary use (*l*).

(3.) In Rule 12 of the general rules contained in section forty-nine of the principal Act, for the words "nor shall coal or coal dust be used for tamping" shall be substituted the words "and only clay or other non-inflammable substances shall be used for stemming, and shall be provided by the owner of the mine" (*m*).

Provision as to explosives.

**6.** A Secretary of State, on being satisfied that any explosive is or is likely to become dangerous, may, by order, of which notice shall be given in such manner as he may direct, prohibit the use thereof in any mine, or in any class of mines, either absolutely or subject to conditions, and the provisions of the principal Act as to contraventions of

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(*k*) "Or the licence of a Secretary of State" is new.
(*l*) This is entirely new. See sect. 49, rule 9, *ante*, p. 70.
(*m*) The words "shall be provided by the owner of the mine" are new.

general rules shall apply to contraventions of any such prohibitions (*n*).

Short title.

57 & 58 Vict. c. 52.

**7.** This Act may be cited as the Coal Mines Regulation Act, 1896, and the principal Act and the Coal Mines (Check Weighers) Act, 1894, and this Act may be cited collectively as the Coal Mines Regulation Acts, 1887 to 1896.

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(*n*) See sect. 50 of Act of 1887, *ante*, p. 79.

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# Appendix I.

## *Abstract of the Coal Mines Regulation Act*, 1887 (*a*).

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**1.** *Inspection.*—The Secretary of State may appoint inspectors (under whatever title he may from time to time fix) of mines, and assign them their duties.

For appointments to inspectorships in Wales and Monmouthshire, among candidates otherwise equally qualified, persons having a knowledge of the Welsh language shall be preferred. (S. 39.)

An inspector may not himself be or practise, or be the partner of one who is or who practises, as land agent or mining engineer, or as a manager, viewer, agent, or valuer of mines, or as arbitrator in mining cases, and may not be otherwise employed in or about any mine, or be a miner's agent or a mine owner (whether such mine is one to which the Act applies or not), nor may he be a partner, or have any interest direct or indirect in any mine in the district under his charge. (S. 40.)

### Manager and Under-Manager.

**2.** *Manager.*—Every mine in which more than 30 persons are employed below ground, or, if less than 30 where the inspector by notice requires it, must be under the control, management, and direction of a manager, who may be the owner or agent or some other person holding a first-class certificate. Notice in writing of the name and address of a manager so appointed must be sent to the inspector of the district. (S. 20.)

**3.** *Temporary appointment.*—If unable to obtain a certificated manager, the owner may appoint a competent person not certificated to be manager for not exceeding two months, or longer, until such person has an opportunity to obtain by examination a certificate in the district where he is acting. Notice to be sent to the inspector. (S. 20 (*b*).)

**4.** *Daily personal supervision* of a mine must be exercised either by the manager or by an under-manager nominated in writing by the owner or agent of the mine. (S. 21 (1).)

**5.** *An under-manager* must hold either a first or second class certificate, and in the absence of the manager will have the same responsibility and be subject to the same liabilities as the manager; but the nomination of an under-manager will not affect the personal responsibility of the manager. (S. 21 (2).)

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(*a*) This abstract is official, the original from whence this reprint is copied having been printed for the Home Office by the Queen's Printers in 1895.

6. *Disqualifications.*—A contractor for mineral, or person in the employ of such a contractor, is not eligible for the post of manager or under-manager under the Act. (S. 22.)

7. *Certificates.*—Holders of—

(1) a certificate of competency under the Act of 1872,
(2) a certificate of service under the Act of 1872,
(3) a first class certificate of competency under the Act of 1887,

} Are qualified to be managers.

And holders of—

(1) a second class certificate of competency under the Act of 1887,
(2) a second class certificate of service under the Act of 1887,

} Are qualified to be under-managers.

*Certificate of Service under the Coal Mines Act*, 1887.—A second class certificate of service under this Act shall be granted by the Secretary of State to every person that satisfies him either that before the 16th September, 1887, he was exercising, and has since that date exercised, or that he has at any time within five years before the 16th September, 1887, for a period of not less than twelve months exercised, in a mine required to have a manager, duties substantially corresponding to those of an under-manager of a mine. (S. 80.)

8. *Examinations.*—A board for examinations will be constituted for each district. The members are appointed by the Secretary of State; amongst them are three persons employed or who have been employed in or about a mine in the district, not being owners, agents, or managers of a mine. Every applicant for a certificate of competency is examined by examiners appointed by the board according to rules made by the board as to the conduct of examinations and the qualifications of the applicants. (S. 24.) An applicant must first obtain an acknowledgment from the Secretary of State that the requisite fee had been paid, which has been fixed to be for a first class certificate 2*l.*, for a second class, 1*l.* (S. 25 and Schedule II.)

No person shall be entitled to a certificate unless he has had practical experience in a mine for at least five years. (S. 23 (1).)

In every examination regard shall be had to such knowledge as is necessary for the practical working of mines in the district for which it is held. (S. 24 (2).)

In the case of applicants for second class certificates the examination and qualifications required shall be suitable for practical working miners. (S. 24 (2).)

Every applicant who has passed the examination satisfactorily and has given satisfactory evidence of sobriety, experience, ability, and general good conduct is entitled to receive from the Secretary of State such a certificate of competency as his case requires. (S. 26 (1).)

## Accidents.

9. *Accidents.*—Notice in writing shall be sent to the inspector on behalf of the Secretary of State, [in Scotland on behalf of the Lord

Advocate] by the owner, agent, or manager of a mine of the occurrence of any accident, whether above or below ground, which causes to any person employed in or about such mine loss of life, or serious personal injury, or if the accident is an explosion of gas or an explosion of explosive material or explosion* of any steam boiler, any personal injury whatever within 24 hours of such accident taking place, specifying in the notice the character of the explosion or accident, and the number of persons killed or injured respectively. (S. 35 (1).)

10. *Place of accident.*—In the case of loss of life or serious personal injury in a mine, the place where the accident occurred shall be left as it was immediately after the accident for a period of three days, or until the visit of the place by an inspector, unless so doing would tend to increase or continue danger or would impede the working of the mine. (S. 35 (2).)

11. *Notice of death.*—In the case of personal injury previously reported as directed by the Act, if the sufferer dies, notice of the death must be sent to the inspector, within 24 hours after such death is known to the owner, agent, or manager. (S. 35 (3).)

12. *Inquiry into Accidents.*—A special inquiry into any explosion or accident in a mine and of its causes and circumstances may be held where the Secretary of State thinks such a formal investigation is expedient. (S. 45.)

13. *Coroner's Inquest.*—The coroner before opening an inquest on the body of a person whose death has been caused by an explosion or accident in or about a mine of which notice is required by the Act to be given to the inspector, must not allow, nor must the constable summon for the purpose, any person having a personal interest in, or employed in, or in the management of the mine to serve on the jury. (S. 48 (7).)

The coroner at the opening of the inquest may forthwith take evidence to identify the body and order the interment thereof. (S. 48 (3).)

The coroner may proceed with and conclude the inquest notwithstanding the absence of any inspector or other person on behalf of the Secretary of State to watch the proceedings, if (*a*) he has given the inspector 24 hours' notice of the time and place of holding the inquest; and (*b*) the explosion or accident has not caused the death of more than one person; and (*c*) the majority of the jury think it unnecessary to adjourn it. (S. 48 (4).)

In all other cases, the coroner must after opening the inquest adjourn the inquiry to some later date, unless an inspector or some person in behalf of the Secretary of State is present to watch the proceedings. (S. 41 (1).)

The coroner must give the inspector of the district four days' notice in writing of the time and place of holding the adjourned inquest. (S. 48 (2).)

The coroner shall allow the inspector present at the inquest to examine any witness, subject, however, to the order of the coroner.

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* NOTE.—Returns are to be made through the Board of Trade in the case of explosion of steam boilers.

The coroner shall also allow (*a*) any relative of any person whose death may have been caused by the explosion or accident, (*b*) the owner, agent, or manager of the mine, and (*c*) any person appointed by the order in writing of the majority of the workmen employed, to attend and examine witnesses at the inquest, either in person or by his counsel, solicitor, or agent, subject, however, to the order of the coroner. (S. 48 (8).)

The coroner, if it be an inquest at which an inspector is not present, must send to the inspector of the district notice in writing of any neglect or defect in or about a mine of which evidence has been given at the inquest as having caused or contributed to the explosion or accident, and which appears to the coroner or jury to require a remedy. (S. 48 (6).)

### Employment of Boys, Girls, and Women.

**14.** "Boy" means a male under the age of 16.
"Girl" means a female under the age of 16.
"Woman" means a female of the age of 16 or upwards. (S. 75.)

**15.** Misrepresentation of age is an offence. (S. 64.)

*Restrictions as to Employment below Ground.*

**16.**

| | |
|---|---|
| Girls and women of any age<br>Boys under 12 | May not be employed. |
| Boys over 12 | Not for more than 54 hours in one week.<br>Not for more than 10 hours in one day.<br>Eight hours' interval between the period of employment on Friday and that of Saturday to be allowed.<br>Twelve hours' interval between each other period of employment.<br>A week to begin at midnight on Saturday and to end at midnight on the succeeding Saturday. (Ss. 4, 5, 6.) |

**17.** The period of each employment shall be deemed to begin at the time of leaving the surface, and to end at the time of returning to the surface. (S. 6 (2).)

**18.** The immediate employer of every boy, if he is other than the owner, agent, or manager of the mine, shall before he causes the boy to be below ground in any mine report to the manager, or to some person appointed by the manager, that he is about to employ the boy in the mine. (S. 8 (2).)

*Restrictions as to Employment above Ground.*

**19.**

| | |
|---|---|
| Girls under 12<br>Boys under 12 | May not be employed. |

| | |
|---|---|
| Girls under 13<br>Boys under 13 | (*a.*) Not for more than six days in one week.<br>(*b.*) Not for more than six hours a day if employed for more than three days in a week.<br>(*c.*) Not for more than 10 hours a day if employed for only three days or less than three days a week. |
| Boys of 13 and upwards<br>Girls of 13 and upwards<br>Women | Not for more than 54 hours in one week and 10 hours in one day. |
| Boys<br>Girls<br>Women | (*a.*) Not to be employed between 9 p.m. and 5. a.m.<br>Not on Sunday.<br>Not after 2 p.m. on Saturday.<br>(*b.*) Eight hours' interval between the period of employment on Friday and that of Saturday to be allowed.<br>Twelve hours' interval between each other period of employment.<br>(*c.*) A week to begin at midnight on Saturday and to end at midnight on the succeeding Saturday.<br>(*d.*) If employed continuously for more than five hours an interval of half an hour to be allowed for a meal.<br>If employed continuously for more than eight hours an interval or intervals for meals amounting to not less than an hour and a half to be allowed.<br>(*e.*) Not to be employed in moving railway waggons. (Ss. 4, 5, 6.) |

**20.** In the case of a mine in Ireland, if exempted by order of the Secretary of State, the employment of boys, girls, and women after 2 p.m. on Saturday is not prohibited. (S. 7, proviso.)

**21.** *School Fees.*—The person who pays the wages of a boy or girl must, after a single application in writing by the principal teacher of a public elementary school [in Scotland, State-aided school], which is attended by any boy or girl, pay regularly every week to such teacher, the cost of his or her schooling (not exceeding 2*d.* a week, or one twelfth of the wages of the boy or girl), and may deduct from the wages of the boy or girl any sum so paid. (S. 10.)

**22.** *Sanitary Regulations.*—When it appears to any local authority by the report of their surveyor, that persons of both sexes are employed or intended to be employed at one time in any portions of a mine which are above ground, the local authority may, if they think fit, by written notice, require the owner of the mine, within the time therein specified, to construct a sufficient number of water-closets, earth-closets, or privies and ashpits for the separate use of each sex. (S. 74.)

### Wages.

**23.** *Place of Payment.*—Wages are not to be paid on any premises used for the sale of intoxicating liquor, or in any place contiguous to such premises. (S. 11 (1).)

### Payment by Weight.

**24.** *Payment according to Weight.*—Where the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, those persons shall be paid according to the actual weight gotten by them of the mineral contracted to be gotten, and the mineral gotten by them shall be truly weighed at a place as near to the pit mouth as is reasonably practicable. (S. 12 (1).)

**25.** *Deductions.*—The owner, agent, or manager may agree with the persons employed in the mine that deductions shall be made in respect of stones or substances other than the mineral contracted to be gotten which shall be sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs, baskets, or hutches being improperly filled, in those cases where they are filled by the getter of the mineral, or his drawer, or by a person immediately employed by him. (S. 12 (1).)

Such deductions may be determined in such special mode as may be agreed upon between the owner, agent, or manager, or some person they may appoint on the one hand, and the persons employed in the mine and their check-weigher on the other; or, in the event of difference, by a third person, who is to be mutually agreed upon, or in default of agreement, to be appointed by a chairman of quarter sessions within the jurisdiction of which any shaft of the mine is situate. (S. 12 (1).)

**26.** *Weighing Machines.*—The weighing apparatus used for determining the wages payable according to the weight of the mineral gotten are subject to the Weights and Measures Acts, 1878—1889 (41 & 42 Vict. c. 49, and 52 & 53 Vict. c. 21), and will be examined, once at least in every six months, by an inspector of weights and measures, or oftener if he suspects that false weights or machines are being used. (S. 15.)

Such inspector is also to inspect all measures and gauges in use at a mine, whether used for determining wages or not, but nothing in this (15) section shall prevent or interfere with the use of the measures or gauges ordinarily used at the mine. (S. 15 (3).)

Such inspector in fulfilling his duties as aforesaid is not to impede or obstruct the ordinary working of the mine. (S. 15 (5).)

**27.** *Check-weigher, his Appointment and Duties.*—The persons employed in any mine who are paid according to the weight of mineral gotten by them, may station at their own cost a check-weigher at each place appointed for the weighing of the mineral or material, and at each place appointed for determining the deductions, in order that he may, on their behalf, take a correct account of the weight of mineral or of the amount of deductions.

Such check-weigher is entitled to have every facility afforded him for performing such duties, also for testing the weighing machines

and checking the tareing of tubs and trams where necessary. (S. 13 (1) and (2).)

The absence of a check-weigher is not to be any reason for interrupting or delaying the weighing or determination of the deductions and other processes connected therewith, unless the check-weigher has had reasonable grounds to think the work in question would not be proceeded with. (S. 13 (3).)

**28.** *Information for Workman.*—The check-weigher is authorized only to take such account or determine such deductions as aforesaid; but he is at liberty to give to any workman an account of the mineral gotten by him or information with respect to the weighing or the weighing-machine, the tareing of the tubs or trams, the determination of the deductions, or any matter within the scope of his duties as check-weigher. (S. 13 (3).)

**29.** *Non-interference with Working.*—A check-weigher may not in any way impede or interrupt the working of the mine, or interfere with the weighing, or with any of the workmen, or with the management of the mine. (S. 13 (3).)

**30.** *Excess of Duty.*—If a check-weigher can be proved to have impeded or interrupted the working of the mine, or interfered with the weighing or with any of the workmen, or at the mine, to the detriment of the owner, agent, or manager, done anything beyond taking such account, determining such deductions, or giving such information as aforesaid, he is liable to be summoned on the complaint of the owner, agent, or manager before a court of summary jurisdiction, and the court may, if it thinks fit, after hearing the parties, make summary order for his removal. (S. 13 (4).)

Another check-weigher may be appointed in his stead. (Ss. 13 (5) and 61 (2).)

**31.** *Remuneration.*—Where a check-weigher has been appointed by the majority, ascertained by ballot, of the persons employed in a mine and paid by weight of mineral gotten by them, and has acted as such, he may recover from any person for the time being employed in such mine, such proportion of his wages as may be due from such person, notwithstanding that any of the persons by whom the check-weigher was appointed may have subsequently left, and others have entered the mine.

And the owner or manager where the majority determined by ballot so agree, may retain for the check-weigher the agreed contribution from the wages of the persons so employed, and account for the same to the check-weigher. (S. 14 (1).)

**32.** *Check-measurer.*—At a mine where, by permission of the Secretary of State, the persons employed are paid by measure or gauge of the mineral gotten by them, a check-measurer may be appointed whose rights and duties correspond to those of the check-weigher. (S. 13 (7).)

### Shafts.

**33.** *Two to a mine.*—Subject to special exceptions, every mine must have two shafts or outlets in communication with every seam at work, and capable of affording separate means of ingress and egress to the persons employed in every such seam. (S. 16 (1).)

**34.** *Distance apart.*—The shafts shall not at any point be nearer to one another than 15 yards, except in the case of a mine provided before the 1st January, 1865, with two shafts less than 10 feet apart and in that of a mine provided before the 1st January, 1888, with two shafts more than 10 feet but less than 15 yards apart. (S. 18 (3).)

**35.** *Communications between Shafts.*—Communications between the shafts or outlets must be made not less than 4 feet wide and 4 feet high.

*Exceptions.*—(*a.*) In case the communications were made before the 1st January, 1888, of the dimensions of 4 feet wide, and though less than 4 feet, not less than 3 feet high, they may be continued in use without enlargement. (S. 16 (1) (*b*).)

(*b.*) The communications between shafts and outlets in any mine or class of mines are not required to be of the dimensions prescribed in the Act if exempted by order of the Secretary of State—

(*a.*) in the case of the thinness of the seams,

(*b.*) or in the case of other exigencies affecting such mine or class of mines,

provided in either case that the conditions (if any) annexed to the order of exemption are duly observed. (S. 18 (iii.).)

**36.** *Machinery for travelling up and down.*—Proper apparatus for raising and lowering persons at each such shaft or outlet shall be kept on the works belonging to the mine; and such apparatus, if not in actual use at the shafts or outlets, shall be constantly available for use. (S. 16 (1) (*c*).)

See Par. 58 (G. R. S.) as to examination of shafts and Pars. 76, 77 (G. R. 19, 20) as to fencing shafts.

## General Rules.

**37.** The following are the general rules which are to be observed so far as is reasonably practicable in every mine (s. 49):—

> [The reports which, under the general rules, are to be recorded in books are: *Rule* 1. Monthly as to ventilation, excepting at mines not required to have a certificated manager. *Rule* 4. State of mine, daily, and for shifts having an interval between; to be in the handwriting of the person who makes the inspection. *Rule* 5. Machinery, guides, conductors, daily; shafts, weekly; each to be signed by the person who makes the inspection. *Rule* 7. Withdrawal in case of danger. (G. R. 37.)]

Rule 1. *Ventilation.*—An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shafts, levels, stables, and workings of the mine and the travelling roads to and from those working places, shall be in a fit state for working and passing therein.

In the case of mines required by this Act to be under the control of a certificated manager, the quantity of air in the respective splits or currents shall at least once in every month be measured and entered in a book to be kept for the purpose at the mine.

Rule 2. Where a fire is used for ventilation in any mine newly

opened after the passing of this Act, the return air, unless it be so diluted as not to be inflammable, shall be carried off clear of the fire by means of a dumb drift or airway.

Rule 3. Where a mechanical contrivance for ventilation is introduced into any mine after the commencement of this Act, it shall be in such position and placed under such conditions as will tend to ensure its being uninjured by an explosion.

Rule 4. *Examination of Mine.* (*a.*) *Before each Shift commences Work.*—A station or stations shall be appointed at the entrance to the mine, or to different parts of the mine, as the case may require; and the following provisions shall have effect:

(i.) As to inspection before commencing work:—

A competent person or competent persons appointed by the owner, agent, or manager, for the purpose not being contractors for getting minerals in the mine shall, within such time immediately before the commencement of each shift as shall be fixed by special rules made under this Act, inspect every part of the mine situate beyond the station or each of the stations, and in which workmen are to work or pass during that shift, and shall ascertain the condition thereof so far as the presence of gas, ventilation, roof and sides, and general safety are concerned.

No workman shall pass beyond any such station until the part of the mine beyond that station has been so examined and stated by such competent person to be safe.

The inspection shall be made with a locked safety lamp, except in the case of any mine in which inflammable gas has not been found within the preceding twelve months.

A report specifying where noxious or inflammable gas, if any, was found present, and what defects (if any) in roofs or sides, and what (if any) other source of danger were or was observed, shall be recorded without delay in a book to be kept at the mine for the purpose, and accessible to the workmen, and such report shall be signed by, and so far as the same does not consist of printed matter, shall be in the handwriting of the person who made the inspection.

For the purpose of the foregoing provisions of this rule, two or more shifts succeeding one another without any interval are to be deemed to be one shift. [*See also* "Shotfiring" par. 67.]

(*b.*) *During Working Shift.*—(ii.) As to inspection during shifts:—

A similar inspection shall be made in the course of each shift of all parts of the mine in which workmen are to work or pass during that shift, but it shall not be necessary to record a report of the same in a book: Provided that in the case of a mine worked continuously throughout the twenty-four hours by a succession of shifts, the report of one of such inspections shall be recorded in manner above required.

Rule 5. *Machinery.*—A competent person or competent persons appointed by the owner, agent, or manager for the purpose, shall, once at least in every twenty-four hours, examine the state of the external parts of the machinery, the state of the guides and conductors in the shafts, and the state of the head gear, ropes, chains, and other similar appliances of the mine which are in actual use both above ground and below ground, and shall once at least in

every week examine the state of the shafts by which persons ascend or descend; and shall make a true report of the result of such examination, and every such report shall be recorded without delay in a book to be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Rule 6. *Fencing.*—Every entrance to any place which is not in actual use or course of working and extension shall be properly fenced across the whole width of the entrance, so as to prevent persons inadvertently entering the same.

Rule 7. *Dangerous Places.*—If at any time it is found by the person for the time being in charge of the mine, or any part thereof, that by reason of inflammable gases prevailing in the mine, or that part thereof, or of any cause whatever, the mine or that part is dangerous, every workman shall be withdrawn from the mine or part so found dangerous, and a competent person appointed for the purpose shall inspect the mine or part so found dangerous, and if the danger arises from inflammable gas shall inspect the mine or part with a locked safety lamp; and in every case shall make a true report of the condition of the mine or part; and a workman shall not, except in so far as is necessary for inquiring into the cause of danger or for the removal thereof, or for exploration, be readmitted into the mine, or part so found dangerous, until the same is stated by the person appointed as aforesaid not to be dangerous. Every such report shall be recorded in a book which shall be kept at the mine for the purpose, and shall be signed by the person who made the inspection.

Rule 8. *Naked Lights.*—No lamp or light other than a locked safety lamp shall be allowed or used—

(*a.*) In any place in a mine in which there is likely to be any such quantity of inflammable gas as to render the use of naked lights dangerous; or

(*b.*) In any working approaching near a place in which there is likely to be an accumulation of inflammable gas.

And when it is necessary to work the coal in any part of a ventilating district with safety lamps, it shall not be allowable to work the coal with naked lights in another part of the same ventilating district situated between the place where such lamps are being used and the return air-way.

Rule 9. *Safety Lamps.*—Wherever safety lamps are used, they shall be so constructed that they may be safely carried against the air current ordinarily prevailing in that part of the mine in which the lamps are for the time being in use, even though such current should be inflammable.

Rule 10. *Locking Lamps.*—In any mine or part of a mine in which safety lamps are required by this Act or by the special rules made in pursuance of this Act to be used—

(i.) A competent person appointed by the owner, agent, or manager, for the purpose, shall, either at the surface or at the appointed lamp station, examine every safety lamp immediately before it is taken into the workings for use, and ascertain it to be in safe working order and securely locked; and such lamps shall not be used until they have

been so examined and found in safe working order and securely locked:

(ii.) A safety lamp shall not be unlocked except either at the appointed lamp station, or for the purpose of firing a shot, in conformity with the provisions hereinafter contained:

(iii.) A person, unless he has been appointed either for the purpose of examining safety lamps, or for the purpose of firing shots, shall not have in his possession any contrivance for opening the lock of any safety lamp:

(iv.) *Lucifers.*—A person shall not have in his possession any lucifer match or apparatus of any kind for striking a light, except within a completely closed chamber attached to the fuse of the shot.

Rule 11. *Lamp Station.*—Where safety lamps are required to be used, the position of the lamp stations for lighting or relighting the lamps shall not be in the return air.

Rule 12. *Shot-firing.*—Any explosive substance shall only be used in the mine below ground as follows:—

(*a.*) It shall not be stored in the mine:

(*b.*) It shall not be taken into the mine, except in cartridges in a secure case or canister containing not more than five pounds:

Provided that on the application of the owner, agent, or manager of any mine, the Secretary of State may by order exempt such mine from so much of this rule as forbids taking an explosive substance into the mine except in cartridges:

(*c.*) A workman shall not have in use at one time in any one place more than one of such cases or canisters:

(*d.*) In the process of charging or stemming for blasting, a person shall not use or have in his possession any iron or steel pricker, scraper, charger, tamping rod, or stemmer, nor shall coal or coal dust be used for tamping:

(*e.*) No explosive shall be forcibly pressed into a hole of insufficient size, and, when a hole has been charged, the explosive shall not be unrammed, and no hole shall be bored for a charge at a distance of less than six inches from any hole where the charge has missed fire:

(*f.*) In any place in which the use of a locked safety lamp is for the time being required by or in pursuance of this Act, or which is dry and dusty, no shot shall be fired except by or under the direction of a competent person appointed by the owner, agent, or manager of the mine, and such person shall not fire the shot or allow it to be fired until he has examined both the place itself where the shot is to be fired, and all contiguous accessible places of the same seam within a radius of twenty yards, and has found such place safe for firing:

(*g.*) If in any mine, at either of the four inspections under rule 4 recorded last, before a shot is to be fired, inflammable gas has been reported to be present in the ventilating district

in which the shot is to be fired, the shot shall not be fired—

(1.) Unless a competent person, appointed as aforesaid, has examined the place where gas has been so reported to be present, and has found that such gas has been cleared away, and that there is not at or near such place sufficient gas issuing or accumulated to render it unsafe to fire the shot; or

(2.) Unless the explosive employed in firing the shot is so used with water or other contrivance as to prevent it from inflaming gas, or is of such a nature that it cannot inflame gas:

(*h.*) If the place where a shot is to be fired is dry and dusty, then the shot shall not be fired unless one of the following conditions is observed, that is to say,—

(1.) Unless the place of firing and all contiguous accessible places within a radius of twenty yards therefrom are at the time of firing in a wet state from thorough watering or other treatment equivalent to watering, in all parts where dust is lodged, whether roof, floor, or sides; or

(2.) In the case of places in which watering would injure the roof or floor, unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust, or is of such a nature that it cannot inflame gas or dust:

(*i.*) If such dry and dusty place is part of a main haulage road, or is a place contiguous thereto, and showing dust adhering to the roof and sides, no shot shall be fired there unless—

(1.) Both the conditions mentioned in sub-head (*h*) have been observed; or

(2.) Unless such one of the conditions mentioned in sub-head (*h*) as may be applicable to the particular place has been observed, and moreover all workmen have been removed from the seam in which the shot is to be fired, and from all seams communicating with the shaft on the same level, except the men engaged in firing the shot, and such other persons, not exceeding ten, as are necessarily employed in attending to the ventilating furnaces, steam boilers, engines, machinery, winding apparatus, signals, or horses, or in inspecting the mine:

(*k.*) In this Act "ventilating district" means such part of a seam as has an independent intake commencing from a main intake air course, and an independent return airway terminating at a main return air course; and "main haulage road" means a road which has been, or for the time being is, in use for moving trams by steam or other mechanical power:

(*l.*) Where a seam of a mine is not divided into separate ventilating districts, the provisions in this Act relating to ventilating districts shall be read as though the word "seam" were substituted for the words "ventilating district":

*Clay and Ironstone Mines.*—(*m.*) So much of this rule as requires

the explosive substance taken into the mine to be in cartridges, and so much of the provisions of sub-head (*f*) as relates to a dry and dusty place, and the provisions (*g*), (*h*), (*i*), (*k*), and (*l*) shall not apply to seams of clay or stratified ironstone which are not worked in connection with any coal seam, and which contain no coal in the working.

Rule 13. *Water.*—Where a place is likely to contain a dangerous accumulation of water, the working approaching that place shall not at any point within forty yards of that place exceed eight feet in width, and there shall be constantly kept at a sufficient distance, not being less than five yards, in advance, at least one bore-hole near the centre of the working, and sufficient flank bore-holes on each side.

Rule 14. *Refuges on underground Planes worked by Machinery.*—Every underground plane on which persons travel, which is self-acting or worked by an engine, windlass, or gin, shall be provided (if exceeding thirty yards in length) with some proper means of communicating distinct and definite signals between the stopping places and the ends of the plane, and shall be provided in every case, with sufficient man-holes for places of refuge at intervals of not more than twenty yards, or if there is not room for a person to stand between the side of a tub and the side of the plane, then (unless the tubs are moved by an endless chain or rope) at intervals of not more than ten yards.

Rule 15. *Refuges on Horse Roads.*—Every road on which persons travel underground where the load is drawn by a horse or other animal shall be provided, at intervals of not more than fifty yards, with sufficient man-holes, or with places of refuge, and every such place of refuge shall be of sufficient length, and at least three feet in width, between the waggons running on the road and the side of such road. There shall be at least two proper travelling ways into every steam engine room and boiler gallery.

Rule 16. *Refuge to be kept clear.*—Every man-hole and every place of refuge shall be constantly kept clear, and no person shall place anything in any such man-hole or place of refuge.

Rule 17. *Horse Roads: Height to clear Horse.*—Every travelling road on which a horse or other draught animal is used underground shall be of sufficient dimensions to allow the horse or other animal to pass without rubbing against the roof or timbering.

Rule 18. *Fencing. Shafts not in use.*—The top of every shaft which for the time being is out of use, or used only as an air shaft, shall be and shall be kept securely fenced.

Rule 19. *Shafts in use.*—The top and all entrances between the top and bottom, including the sump, if any, of every working ventilating or pumping shaft shall be properly fenced, but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used.

Rule 20. *Shaft to be cased.*—Where the natural strata are not safe, every working or pumping shaft shall be securely cased, lined or otherwise made secure.

Rule 21. *Security of Roof and Sides.*—The roof and sides of every

travelling road and working place shall be made secure, and a person shall not, unless appointed for the purpose of exploring or repairing, travel or work in any such travelling road or working place which is not so made secure.

Rule 22. *Propping Timber.*—Where the timbering of the working places is done by the workmen employed therein, suitable timber shall be provided at the working place, gate end, pass bye, siding or other similar place in the mine convenient to the workmen, and the distance between the sprags or holing props where they are required shall not exceed six feet or such less distance as may be ordered by the owner, agent, or manager.

Rule 23. *Use of Downcast Shaft.*—Where there is a downcast and furnace shaft to the same seam, and both such shafts are provided with apparatus in use for raising and lowering persons, every person employed in the mine shall, on giving reasonable notice, have the option of using the downcast shaft.

Rule 24. *Competency of Engineers.*—In any mine which is usually entered by means of machinery, a competent male person not less than twenty-two years of age shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein, and shall attend for that purpose during the whole time that any person is below ground in the mine.

Where any shaft, plane, or level is used for the purpose of communication from one part to another part of a mine, and persons are taken up or down or along such shaft, plane, or level, by means of any engine, windlass, or gin, driven or worked by steam or any mechanical power, or by an animal, or by manual labour, the person in charge of such engine, windlass, or gin, or of any part of the machinery, ropes, chains, or tackle connected therewith, must be a competent male person not less than eighteen years of age.

Where the machinery is worked by an animal, the person under whose direction the driver of the animal acts, shall for the purposes of this rule, be deemed to be the person in charge of the machinery.

Rule 25. *Signalling.*—Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall, if exceeding fifty yards in depth, and not exempted in writing by the Inspector of the district, be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft and from every entrance for the time being in use between the surface and the bottom of the shaft to the surface, and from the surface to the bottom of the shaft and to every entrance for the time being in use between the surface and the bottom of the shaft.

Rule 26. *Overwinding.*—If in any mine the winding apparatus is not provided with some automatic contrivance to prevent overwinding, then the cage, when men are being raised, shall not be wound up at a speed exceeding three miles an hour, after the cage has reached a point in the shaft to be fixed by the special rules.

Rule 27. *Cover for Cage.*—A sufficient cover overhead shall be used for every cage or tub employed in lowering or raising

persons in any working shaft, except where the cage or tub is worked by a windlass, or where persons are employed at work in the shaft, or where a written exemption is given by the Inspector of the district.

Rule 28. *Chain.*—A single linked chain shall not be used for lowering or raising persons in any working shaft or plane, except for the short coupling chain attached to the cage or tub.

Rule 29. *Winding Drum.*—There shall be on the drum of every machine used for lowering or raising persons, such flanges or horns, and also if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping.

Rule 30. *Winding Breaks: Position of Cage.*—There shall be attached to every machine worked by steam, water, or mechanical power, and used for lowering or raising persons, an adequate break or breaks, and a proper indicator (in addition to any mark on the rope) showing to the person who works the machine the position of the cage or tub in the shaft.

If the drum is not on the crank shaft, there shall be an adequate break on the drum shaft.

Rule 31. *Fencing Machinery.*—Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and shall be kept securely fenced.

Rule 32. *Steam Boiler.*—Each steam boiler, whether separate or one of a range shall have attached to it a proper safety valve, and also a proper steam gauge and water gauge, to show respectively the pressure of steam and the height of water in each boiler.

Rule 33. *Atmospheric Pressure and Temperature.*—A barometer and thermometer shall be placed above ground in a conspicuous position near the entrance to the mine.

Rule 34. *Ambulances.*—Where persons are employed underground, ambulances or stretchers, with splints and bandages, shall be kept at the mine ready for immediate use in case of accident.

Rule 35. *Safety Contrivances.*—No person shall wilfully damage, or without proper authority remove or render useless, any fence, fencing, manhole, place of refuge, casing, lining, guide means of signalling, signal, cover, chain, flange, horn, break, indicator, steam gauge, water gauge, safety valve, or other appliance or thing provided in any mine in compliance with this Act.

Rule 36. *Obedience to Orders.*—Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Act or the special rules in force in the mine.

Rule 37. *Books.*—The books mentioned in these rules shall be provided by the owner, agent, or manager, and the books, or a correct copy thereof, shall be kept at the office at the mine, and any inspector under this Act, and any person employed in the mine or any one having the written authority of any inspector or person so employed, may at all reasonable times inspect and take copies of and extracts from any such books; but nothing in these rules shall be construed to impose the obligation of keeping any such book or a copy thereof for more than twelve months after the book has ceased to be used for entries therein under this Act. (*See par.* 52.)

Any report by this Act required to be recorded in a book may be partly in print (including lithograph) and partly in writing.

Rule 38. *Inspection on behalf of Workmen.*—The persons employed in a mine may from time to time appoint two of their number or any two persons, not being mining engineers, who are practical working miners, to inspect the mine at their own cost, and the persons so appointed shall be allowed once at least in every month, accompanied, if the owner, agent, or manager of the mine thinks fit, by himself or one or more officers of the mine, to go to every part of the mine, and to inspect the shafts, levels, planes, working places, return air-ways, ventilating apparatus, old workings, and machinery. Every facility shall be afforded by the owner, agent, and manager, and all persons in the mine for the purpose of the inspection, and the persons appointed shall forthwith make a true report of the result of the inspection, and that report shall be recorded in a book to be kept at the mine for the purpose, and shall be signed by the persons who made the inspection; and if the report state the existence or apprehended existence of any danger, the owner, agent, or manager shall forthwith cause a true copy of the report to be sent to the Inspector of the district.

Rule 39. *Coal-getter working alone.*—No person not now employed as a coal or ironstone getter shall be allowed to work alone as a coal or ironstone getter in the face of the workings until he has had two years' experience of such work under the supervision of skilled workmen, or unless he shall have been previously employed for two years in or about the face of the workings of a mine. (S. 49.)

**38.** *False Statement of Qualification under General Rule* 39.—The employment of a person at a mine in working alone as a coal or ironstone getter, not being qualified for such work pursuant to general rule 39, if taking place on his representation that he was so qualified, and on the acceptance in good faith of such representation shall not involve the owner, agent, or manager of the mine in the responsibility for such contravention of the Act, but the person making the misrepresentation shall be held guilty of an offence against the Act. (S. 64.)

**39.** *Responsibility for Offences against the General Rules.*—Every person who contravenes or does not comply with any of the general rules in this Act, shall be guilty of an offence against this Act.

## Special Rules.

**40.** *Purpose of Special Rules.*—Special rules must be established in every mine appropriate to the particular state and circumstances of each mine, to serve for the conduct and guidance of the persons acting in the management of the mine, and of those employed in or about the mine, with a view to prevent dangerous accidents and to provide for the safety, convenience, and discipline of those employed in or about the mine.

Any person offending against the special rules commits an offence against the Act. (S. 51.)

**41.** *Making of Special Rules.*—Special rules are proposed by the

owner, agent, or manager, and transmitted to the Inspector of the district for approval by the Secretary of State. A copy of the proposed special rules, together with a printed notice specifying that any objection to the rules on the ground of anything contained therein or omitted therefrom may be sent by any of the persons employed in the mine to the Inspector of the district at his address stated in the notice, shall, during not less than two weeks before the rules are transmitted to the Inspector, be posted up in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed, and so often as the same become defaced, obliterated, or destroyed shall be renewed with all reasonable despatch.

The copy of special rules shall be kept distinct from any rules which depend only on the contract between the employer and employed. (S. 57 (3).)

The Act contains provisions for the amendment of and addition to the special rules.

42. *Special Danger.*—Any matter, thing, or practice in or connected with any mine or any part thereof, or with the control, management, or direction thereof by the manager, which is found by an Inspector to be dangerous or defective so as, in his opinion, to threaten or tend to the bodily injury of any person, and which is not provided against by any express provision of the Act or by any special rule, may by him be notified in writing to the owner, agent, or manager of the mine, and the same be required to be remedied.

## Prosecutions.

43. *Prosecutions.*—Summary proceedings for offences, not declared to be misdemeanors, may be prosecuted and money recovered under the Summary Jurisdiction Acts (England, s. 61; Scotland, ss. 67, 76; Ireland, s. 77), to be commenced within three months of the time when the matter of complaint or information arose (s. 62 (1)); except in case of neglect to send plans or returns of abandoned mine, when time extends to six months after abandonment or after service of notice with respect thereto. (S. 38.)

Persons charged, who think fit, may be sworn and examined as witnesses. (S. 62 (2).)

Minutes of evidence to be taken, if required by either party. (S. 62 (3).)

Parent or guardian for misstatement of age of boy or girl and person working alone for misstatement of time of experience as a workman are respectively liable for such offences, and not the authorities of the mine where the employment takes place. (S. 64.)

Prosecutions against an owner, agent, manager, or under-manager for an offence not committed personally are not to be instituted except by an Inspector or with the written consent of a Secretary of State.

Any person doing an act which in the case of an owner, agent, or manager, would be an offence against this Act, shall be guilty of an offence against the Act. (S. 59 (1).)

44. *Disqualification of Justices interested in Mines.*—The justice holding the court of summary jurisdiction to hear cases under the Act may not, except with the consent of both parties, be an owner, agent, manager, miner, miner's agent, or the father, son, or brother, or father-in-law, son-in-law, or brother-in-law, of the foregoing, nor director of a company owning a mine. (S. 69.)

45. *Application of Fines.*—Fines, on recovery, for neglecting to send notice of any explosion or accident, or for any offence against the Act which has occasioned loss of life or personal injury, may be given by the Secretary of State among the persons injured and the relatives of any persons whose death may have been occasioned by the explosion, accident, or offence, or among some of them.

Provided that (*a*) such persons did not in his opinion occasion or contribute to occasion the explosion or accident, and did not commit and were not parties to committing the offence, and (*b*) the fact of the payment or distribution shall not in any way affect or be receivable as evidence in any legal proceeding relative to or consequential on the explosion, accident, or offence. (S. 70.)

### Posting Abstract of Act and Special Rules.

46. A copy of the special rules established at a mine, together with a copy of the abstract of the Act, with the name of the mine, the name and address of the Inspector of the district, and the names of the owner or agent and manager appended thereto, shall be posted up in legible characters in some conspicuous place at or near the mine, where they may be conveniently read by the persons employed; and so often as the same become defaced, obliterated, or destroyed, they shall be renewed with all reasonable despatch. (S. 57 (1).)

Printed copies of the abstract and special rules shall be issued gratis to persons employed about the mine upon application at the office where such persons are paid. (S. 57 (2).)

To pull down, injure, or deface any notice or document required by this Act to be posted up is an offence against the Act. (S. 58.)

# Appendix II.

## *INDEX to the Forms used by H.M.'s Inspectors of Mines (a).*

| No. of Form. | (Those Forms marked * are on sale.) | Price |
|---|---|---|
| 1. | Index | *Gratis* |
| *2. | Abstract of Coal Mines Act (pamphlet) | 3*d.* |
| *3. | Ditto. (sheet form for posting up) | 3*d.* |
| *4. | Ditto. (ditto in Welsh). | 3*d.* |
| *6. | Ditto. (sheet form for posting up) | 3*d.* |
| *7. | Ditto. (ditto in Welsh) | 3*d.* |
| *11. | Statutory Register. Coal Mines (per doz.) | 6*d.* |
| *13. | Notice of Accident. Mines, Quarries, Factories and Workshops (per doz.) | 6*d.* |
| 15. | Acknowledgment of Notice of Accident. (With Inspector's address at top and name at bottom.) | — |
| 16. | Certifying Surgeon's Report of Accident | — |
| 17. | List of Fatal and Non-fatal Accidents. Mines, Quarries, Factories | — |
| 18. | Summary of Accidents in Mines, and Deaths | — |
| 21. | Summary showing Hour of Shift in which Accidents happened | — |
| 23. | Certifying Surgeon's Annual Account | — |
| *24. | Annual Return. Coal Mines | 1*d.* |
| 29. | Summary of Annual Returns. Coal Mines | — |
| 31. | Acknowledgment of Opening or Recommencement | — |
| 32. | Acknowledgment of Discontinuance or Abandonment | — |
| 33. | Form to accompany Plans of Abandoned Mines | — |
| 34. | Acknowledgment of Notice of Appointment of Manager | — |
| 35. | Notice of Danger | — |
| 36. | Shaft Exemptions | — |
| 37. | Transmitting Special Rules. (With Inspector's address at top and name at bottom) | — |
| 38. | Returning Special Rules to Owner. (With Inspector's address at top and name at bottom) | — |
| *39. | Conviction Return (per doz.) | 6*d.* |
| *40. | Information for Candidates | 1*d.* |
| 41. | Telegram Account | — |
| 42. | Expenses Account | — |

Numbers 14 and 28 are now comprised in Nos. 13 and 26 respectively; Number 22 is obsolete.

Note.—All the above forms will be supplied to the Inspectors of Mines from the Home Office on application. The forms used for Summaries may be had bound together in book form if required.

Copies of the Sale Forms mentioned above may be purchased, either directly or through any bookseller, from Eyre & Spottiswoode, East Harding Street, Fleet Street, E.C.; or John Menzies & Co., 12, Hanover Street, Edinburgh, and 90, West Nile Street, Glasgow; or Hodges, Figgis & Co., Limited, 104, Grafton Street, Dublin.

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(*a*) The information contained in the above Index has been obtained from official sources, but the Authors are responsible for such Index as printed above, and it is not itself official.

# Appendix III.

## *Home Office Instructions to Inspectors of Mines (a).*

Mines Inspectors are appointed by the Secretary of State at a salary commencing at 300*l.* a year.

An application for a nomination to this post should be addressed to the Home Secretary, and sent under cover to the Private Secretary to the Secretary of State, Home Office, London. It should state the age of the applicant and indicate what experience he has had in collieries or metalliferous mines. All such applications will be considered from time to time as occasion may arise for fresh nominations to be made. No person will be qualified as a candidate who has not, within five years previous to his application, been employed for two years underground in a coal mine.

A candidate nominated by the Home Secretary to the post of Mines Inspector will be required, before he is appointed, to satisfy the Civil Service Commissioners that he possesses certain necessary qualifications for the post. An examination is held by the Commissioners for this purpose in the subjects given below. In the event of more than one candidate being nominated by the Home Secretary for a single vacancy, and the examination being thus made competitive, the candidates will be so informed at the time they are nominated.

*Subjects of Examination.*

1. Handwriting.
2. Orthography.
3. Arithmetic (including Vulgar and Decimal Fractions).
4. English Composition.
5. Theoretical and Practical acquaintance with Coal Mines and Mining.
6. A knowledge of Metalliferous Mines.

*The Fee for the Examination is 6l.*

The limits of age for candidates are 23 and 35.

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## *INSTRUCTIONS of the Secretary of State for H.M. Inspectors of Mines as to Provisions for Education of Children and Young Persons employed in or about Mines (a).*

SUMMARY.

It will be the duty of H.M. Inspector of Mines in all mines in England and Wales, both above and below ground (except above ground in mines subject to the Metalliferous Mines Regulation

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(*a*) These instructions are those officially furnished by the Home Office.

Act), to enforce against employers (as distinguished from parents):—

(*a.*) In the case of children under 13, for whom byelaws have been made, the provisions of the Elementary Education Act, 1880, prohibiting employment without a certificate of having reached the standard of education fixed by the byelaws in force in the School District.

(*b.*) In the case of children under 13, for whom byelaws have not been made, and in the case of children between 13 and 14, the provisions of the Elementary Education Act, 1876, prohibiting employment without a certificate either of proficiency or of previous due attendance at school.

Reference is made to the provisions of the Factory and Workshop Act, 1878, merely for the purpose of showing that on the pit-banks of such mines as are subject to the Metalliferous Mines Regulation Act, the duty of enforcing the education provisions, whether in the Factory and Workshop Act, 1878, or in either of the Elementary Education Acts, 1876, 1880, is withdrawn from the Inspectors of Mines.

The provisions of the Elementary Education Acts, 1876, 1880, to which the attention of the Inspector is specially directed, are in the following terms:—

## *Elementary Education Act*, 1876 (39 & 40 *Vict. c.* 79).

5. *Regulation as to employment of child under* 10, *and certificate of education of previous school attendance being condition of employment of child over* 10.]—A person shall not, after the commencement of this Act (1 January, 1877), take into his employment (except as hereinafter in this Act mentioned) any child—

(1.) Who is under the age of 10 years; or

(2.) Who, being of the age of 10 years or upwards, has not obtained such certificate either of his proficiency in reading, writing, and elementary arithmetic, or of previous due attendance at a certified efficient school, as is in this Act in that behalf mentioned, unless such child, being of the age of 10 years or upwards, is employed and is attending school in accordance with the provisions of the Factory Acts, or of any byelaw of the local authority (hereinafter mentioned) made under section seventy-four of the Elementary Education Act, 1870, as amended by the Elementary Act, 1873, and this Act, and sanctioned by the Education Department.

6. *Penalty for employing a child in contravention of Act.*]—Every person who takes a child into his employment in contravention of this Act shall be liable, on summary conviction, to a penalty not exceeding forty shillings.

7. *Enforcement of Act by school board or school attendance committee of existing local authority or by inspectors of factories or mines.*]—

The provisions of this Act respecting the employment of children shall be enforced—

(1.) In a school district within the jurisdiction of a school board, by that board; and

(2.) In every other school district by a committee (in this Act referred to as a school attendance committee) appointed annually, if it is a borough, by the council of the borough, and, if it is a parish, by the guardians of the union comprising such parish.

A school attendance committee under this section may consist of not less than six nor more than twelve members of the council or guardians appointing the committee, so, however, that, in the case of a committee appointed by guardians, one-third at least shall consist of ex-officio guardians, if there are any and sufficient ex-officio guardians.

Every such school board and school attendance committee (in this Act referred to as the local authority) shall, as soon as may be, publish the provisions of this Act within their jurisdiction in such manner as they think best calculated for making those provisions known.

*Provided that it shall be the duty of the inspectors and sub-inspectors acting under the Acts regulating factories, workshops, and mines respectively, and not of the local authority, to enforce the* observance by the employers *of children in such factories, workshops, and mines of the provisions of this Act respecting the employment of children; but it shall be the duty of the local authority to assist the said inspectors and sub-inspectors in the performance of their duty by information and otherwise.*

It shall be the duty of such local authority to report to the Education Department any infraction of the provisions of section seven of the Elementary Education Act, 1870, in any public elementary school within their district which may come to their knowledge, and also to forward to the Education Department any complaint which they may receive of the infraction of those provisions.

9. *Exception to prohibition of employment of children.*]—A person shall not be deemed to have taken any child into his employment contrary to the provisions of this Act, if it is proved to the satisfaction of the Court having cognizance of the case, either:—

(1.) That during the employment there is not within two miles, measured according to the nearest road from the residence of such child any public elementary school open which the child can attend; or

(2.) That such employment, by reason of being during the school holidays, or during the hours during which the school is not open, or otherwise, does not interfere with the efficient elementary instruction of such child, and that the child obtains such instruction by regular attendance for full time at a certified efficient school or in some other equally efficient manner.

24. *Supplemental provisions as to certificates of proficiency and previous attendance at school.*]—The certificates of proficiency of a child in reading, writing, and elementary arithmetic, and of the previous due attendance of a child at a certified efficient school for the purposes of this Act, shall be certificates of proficiency and previous

due attendance ascertained according to the standards set forth in the First Schedule to this Act, and such certificate shall be granted to the child entitled to the same, free of cost or charge to such child, or to the parent of such child.

The Education Department may from time to time by order make and when made revoke and vary regulations with respect to certificates of age for the purposes of this Act and the persons by whom and the form in which certificates of the said proficiency and due attendance are to be granted, and with respect to other matters relating thereto, and with respect to the preservation of registers and other records of such proficiency and attendance, and such regulations shall be observed by the local authority and the managers of certified efficient schools.

All regulations made by the Education Department under this section shall be laid before Parliament in the same manner as Minutes of the Education Department relating to the annual Parliamentary grant.

25. *Certificates of birth for purposes of Act.*]—Where the age of any child is required to be ascertained or proved for the purposes of this Act, or for any purpose connected with the elementary education or employment in labour of such child, any person on presenting a written requisition in such form and containing such particulars as may be from time to time prescribed by the Local Government Board, and on payment of such fee, not exceeding one shilling, as the Local Government Board from time to time fix, shall be entitled to obtain a certified copy under the hand of the registrar or superintendent registrar of the entry in the register under the Births and Deaths Registration Acts, 1836 to 1874, of the birth of the child named in the requisition.

37. *Application of* 36 *&* 37 *Vict. c.* 86, *ss.* 23-25, *to penalties and punishment for fraudulently obtaining payment of fees.*]—Sections twenty-three, twenty-four, and twenty-five of the Elementary Education Act, 1873 (which provisions relate to legal proceedings, and the forgery of certificates), shall, so far as applicable, apply in the case of offences and penalties under this Act, and proceedings for such offences and penalties and of certificates for the purposes of this Act, in like manner as if those sections were enacted in this Act and in terms made applicable thereto.

And every person who shall fraudulently obtain or enable to procure any other person to obtain from any school board or local authority payment or remission of payment, or an order for payment or remission of payment, of any school fees, shall be liable on summary conviction to imprisonment for a period not exceeding fourteen days.

An order which a court of summary jurisdiction has authority to make in pursuance of this Act may be made in manner provided by the Summary Jurisdiction Acts.

39. *Exemption of employer on proof of guilt of some other person.*]—Where the offence of taking a child into employment in contravention of this Act is in fact committed by an agent or workman of the employer, such agent or workman shall be liable to a penalty as if he were the employer.

Where a child is taken into employment in contravention of this

Act on the production by or with the privity of the parent of a false or forged certificate, or on the false representation of his parent that the child is of an age at which such employment is not in contravention of this Act, that parent shall be liable to a penalty not exceeding forty shillings.

Where an employer charged with taking a child into his employment in contravention of this Act proves that he has used due diligence to enforce the observance of this Act, and either that some agent or workman of his employed the child without his knowledge or consent, or that the child was employed either on the production of a forged or false certificate and under the belief in good faith in the genuineness and truth of such certificate, or on the representation by his parent that the child was of an age at which his employment would not be in contravention of this Act and under the belief in good faith in such representation, the employer shall be exempt from any penalty.

Where an employer satisfies the local authority, inspector, or other person about to institute a prosecution that he is exempt under this section by reason of some agent, workman, or parent being guilty, and gives all facilities in his power for proceeding against and convicting such agent, workman, or parent, such authority, inspector, or person shall institute proceedings against such agent, workman, or parent, and not against the employer.

47. *Definition of employment in case of parent.*]—A parent of a child who employs such child in any labour exercised by way of trade or for the purposes of gain shall be deemed for the purposes of this Act to take such child into his employment.

48. *General definitions.*]—A child in this Act means a child between the ages of five and fourteen years.

Terms in this Act shall, so far as is consistent with the tenor thereof, have the same meaning as in the Elementary Education Acts, 1870 and 1873.

The term "certified efficient school" in this Act means a public elementary school, and any workhouse school certified to be efficient by the Local Government Board, and any public or state-aided elementary school in Scotland, and any national school in Ireland, and also any elementary school which is not conducted for private profit, and is open at all reasonable times to the inspection of Her Majesty's Inspectors, and requires the like attendance from its scholars as is required in a public elementary school, and keeps such registers of those attendances as may be for the time being required by the Education Department, and is certified by the Education Department to be an efficient school.

50. *Construction of this Act with other enactments.*]—Where any act, neglect, or default is punishable under this Act and also under any other enactment, or any byelaw made by a school board or other local authority for the time being in force, proceedings may be instituted in respect of such act, neglect, or default under this Act or such other enactment or byelaw, in the discretion of the authority or person instituting the proceedings, so that proceedings under one enactment or byelaw only be instituted in respect of the same act, neglect, or default; and any byelaw made either before or after the commencement of this Act, by any school board or

other local authority under section seventy-four of the Elementary Education Act, 1870, if otherwise valid, shall not be rendered invalid by reason that it is more stringent than the provisions of this Act; and nothing in this Act shall prejudice the effect of or derogate from any provisions relating to the committal of children to industrial schools or the employment of children contained in any previous Act of Parliament which may be more stringent in its provisions than this Act.

FIRST SCHEDULE.

STANDARDS OF PROFICIENCY IN READING, WRITING, AND ELEMENTARY ARITHMETIC AND PREVIOUS DUE ATTENDANCE AT SCHOOL.

*For the purpose of Employment.*

(1.) The standard of proficiency in reading, writing, and elementary arithmetic for the purpose of a certificate under this Act enabling a child to be employed shall be—

(a) The standard of reading, writing, and elementary arithmetic fixed by standard four of the Code of 1876, or any higher standard.

(2.) The standard of previous due attendance at a certified efficient school for the purpose of a certificate under this Act enabling a child to be employed shall be two hundred and fifty attendances after five years of age in not more than two schools during each years for five years, whether consecutive or not.

(11.) Attendance for the purpose of this schedule means an attendance as defined by the Code of 1876, and where the attendance is at a certified day industrial school includes such attendance as may be from time to time directed for the purpose by a Secretary of State, and where the attendance is at a workhouse school includes such attendance as may be from time to time directed for the purpose by the Local Government Board.

(12.) The Code of 1876 in this schedule means the Code of the Minutes of the Education Department made in the year one thousand eight hundred and seventy-six with respect to the parliamentary grant to public elementary schools in England.

## *Elementary Education Act*, 1880 (43 & 44 *Vict. c.* 23).

2. *Obligation to make Byelaws as to the attendance of Children at School.*]—It shall be the duty of the local authority (within the meaning of the Elementary Education Act, 1876), of every school district in which byelaws respecting the attendance of children at school under section seventy-four of the Elementary Education Act, 1870, are not at the passing of this Act in force, forthwith to make byelaws under that section for such district.

If at any time after thirty-first day of December one thousand eight hundred and eighty it appears to the Education Department that in any school district there are no byelaws under that section in force, the Education Department may either proceed under

section twenty-seven of the Elementary Education Act, 1876 (which relates to a local authority who fail to fulfil their duty under that Act), or may make byelaws respecting the attendance of children at school in that district, and the byelaws so made shall have effect and be enforced and be subject to revocation and alteration as if they had been made by the local authority for that district and sanctioned by the Education Department in pursuance of section seventy-four of the Elementary Education Act, 1870: Provided that where in a school district in which byelaws are not in force a byelaw is made in pursuance of this section, that byelaw shall not prevent a child who, at the date of the byelaw taking effect, is employed in accordance with the Elementary Education Act, 1876, from continuing to be so employed.

4. *Enforcing of Byelaws.*]—Every person who takes into his employment a child of the age of 10 and under the age of 13 years resident in a school district, before that child has obtained a certificate of having reached the standard of education fixed by a byelaw in force in the district for the total or partial exemption of children of the like age from the obligation to attend school, shall be deemed to take such child into his employment in contravention of the Elementary Education Act, 1876, and shall be liable to a penalty accordingly.

## *Explanatory Remarks on the above Provisions in Elementary Education Acts*, 1876, 1880.

### (1.) *As to Elementary Education Act*, 1876.

Section 5 is divided into two subsections. The first subsection, prohibiting the employment of children under 10 years of age, calls for no remark.

With respect to the second subsection, it is to be observed that by reason of the definition of the term "child" in section 48 of the Elementary Education Act, 1876, a person remains a child up to 14 years of age. The effect, therefore, of this subsection (2) of section 5 of the Elementary Education Act, 1876 (considered apart from section 4 of Elementary Education Act, 1880), is, that subject to the exceptions in section 9 a child between 10 and 14 is prohibited from being employed in a mine, whether above ground or below ground, and whether by his parent or anyone else, if by way of trade or purpose of gain, unless he either has obtained such a certificate of proficiency or certificate of previous due attendance at a certified efficient school as is prescribed (ss. 5, 24, and Schedule I.), or is attending school in accordance either with the Factory Act or with a byelaw.

### (2.) *As to Elementary Education Act*, 1880.

(*a*) By Elementary Education Act, 1870, power had been given to a school board, if they thought fit, to make byelaws applicable to children between 5 and 13, rendering attendance at school com-

pulsory, and in default subjecting the parent to a penalty. The Elementary Education Act, 1876, in prohibiting by section 5 the employment of a child under 14 without a certificate either of proficiency or of previous due attendance at school, allowed as an alternative attendance at school in accordance with byelaws. The Elementary Education Act, 1880, by section 2, made it imperative on every school authority to make byelaws, and in default enabled the Education Department to make byelaws. It may be assumed, consequently, that there are byelaws in every district, but these byelaws do not in all districts apply to children of all ages between 10 and 13. Section 4 of the Act of 1880 makes attendance at school obligatory (to the exclusion of any other of the alternatives allowed by section 5 (2) of Elementary Education Act, 1876) in any case where the byelaws require such attendance. In these cases, therefore, where byelaws have been made, section 5 (2) of the Elementary Education Act, 1876, is superseded, in other cases of children under 13, where byelaws might have been made but have not been made, and also in all cases of children between 13 and 14 (for whom byelaws cannot be made) it is of full force.

(*b*) The effect of section 4 of the Elementary Education Act, 1880, is not to assign to inspectors of mines the enforcement of byelaws of the school authority (which byelaws, as previously mentioned, operate directly on the parent), but to create a statutory prohibition against employers from employing children subject to byelaws without a certificate of having reached the standard of education fixed by the local byelaws, and to declare it the duty of the inspectors of mines to enforce in mines that statutory prohibition as against the employer. The inspector, therefore, will be concerned with byelaws only so far as it may be necessary to him to refer to them for the purpose of ascertaining the standards of education fixed for children of the district according to their age.

(3.) *As to both Elementary Education Act*, 1876, *and Elementary Education Act*, 1880.

(*a*.) These Acts do not extend either to Scotland or Ireland.

(*b*.) The prohibition of employment is subject to the permanent exception in section 9 of the Elementary Education Act, 1876.

(*c*.) This prohibition of employment it is the duty of an inspector of mines to enforce as against the employer (but not against the parent); and for this purpose he will put himself into communication with the local (school) authority as defined in section 7 of the Elementary Education Act, 1876, and obtain from them such assistance as they may be able to furnish.

(*d*.) With respect to prosecutions for breach of the Elementary Education Acts, 1876 and 1880, the inspector is referred to sections 37, 39, and 50 of the Act of 1876; but no such prosecution may be instituted by the inspector without the sanction of the Secretary of State.

(*e*.) The power of obtaining certificates of birth of children under 14 in the manner authorized by section 25 of the Elementary Education Act, 1876, will be available to the inspector for the purpose of the provisions above set forth of both the Elementary Edu-

cation Acts, or for any purpose relating to the Coal Mines Regulation Act, 1887, or the Metalliferous Mines Regulation Acts. Several school boards having made arrangements under section 26 of the Elementary Education Act, 1876, for a systematic registration of the births of children in their respective districts, the inspector should ascertain from each local (school) authority their practice in this respect, and how far the records of such authority would assist him in the discharge of his duties, before he calls upon the parents or others to incur any expense in procuring certificates of age.

## *The Factory and Workshop Act*, 1878.

This Act, which extends to the United Kingdom, contains educational provisions applicable to children under 14 employed in a factory or workshop as defined by that Act.

By section 93 and Schedule IV., Part II. (26), of that Act, "pitbanks" are declared to be factories or workshops according to circumstances, and "pitbanks" are defined to be "any place above ground adjacent to the shaft of a mine, in which place the employment of women is not regulated by the Coal Mines Regulation Act, 1872 (now the Act of 1887), or the Metalliferous Mines Regulation Act, 1872, whether such place does or does not form part of the mine within the meaning of those Acts."

As the employment of women above ground in a mine subject to the Coal Mines Regulation Act is regulated by that Act, it follows that the only pitbanks to which the education provisions of the Factory and Workshop Act, 1878, apply, are such parts of mines subject to the Metalliferous Mines Regulation Acts as are above ground.

Attendance at school in accordance with the Factory and Workshop Act, 1878, is an exemption from section 5 of the Elementary Education Act, 1876, but not from section 4 of the Elementary Education Act, 1880. But, so far as concerns the education of children employed in pitbanks of mines subject to the Metalliferous Mines Regulation Act, all provisions on the subject, whether such provisions are contained in the Factory and Workshop Act, 1878, or either of the Elementary Education Acts, 1876, 1880, are enforced by Inspectors of Factories and not by Inspectors of Mines.

(Signed) HENRY MATTHEWS.

Whitehall,
1 *January* 1888.

# Appendix IV.

## *RULES made by the Secretary of State as to Examining Boards (a).*

(Coal Mines Regulation Act, 1887, ss. 25 and 31.)

I. Each member of the Board for Examinations will be allowed the sum of 1*l.* 10*s.* 0*d.*, to cover all his travelling and personal expenses, for each meeting attended by him, provided that the total amount claimed does not exceed 7*l.* per annum.

II. The allowance (Rule I.) will be paid to each member upon receipt of his claim by the Home Office. (Form A.)

III. The Board will from time to time appoint a Secretary.

IV. The Secretary may, if desired, be one of the members of the Board.

V. The duties of the Secretary will include:

(*a.*) Furnishing the Home Office with the addresses of the various members of the Board, and of any changes.

(*b.*) Conducting the necessary correspondence with the Home Office, under the direction of the Chairman.

(*c.*) Summoning the meetings of the Board in accordance with the directions of Schedule I. of the Act. (Form B.)

(*d.*) Keeping the minutes of the proceedings of the Board, and of all sub-committees of the Board. (Book A.)

(*e.*) Reporting to the Home Office the proceedings of the Board. (Form C.)

(*f.*) Informing candidates of the date and place of examination. (Form E.)

(*g.*) Attending to the arrangements necessary in connection with the examinations, including—

i. Hire of room.

ii. Printing of necessary examination papers.

iii. Supply of stationery to the candidates.

iv. Preparing and transmitting to the Home Office, the advertisements giving notice of the examinations, &c. (Form D.)

v. Attending in person at the place of examination.

VI. The Secretary will be allowed a fixed fee of 20*l.* per annum for his services, together with a capitation fee of 2*s.* for each candidate attending the examination. He will also receive the sum of 30*s.* to cover all his travelling and personal expenses for each meeting of the Board, or each day of examination separately attended by him personally, provided the total amount claimed for expenses does not exceed 15*l.* per annum. If he be a member of the Board, this sum of 30*s.* will include the sum of 30*s.* (see Rule 1) allowed to him for his expenses as such member. Payment should be claimed half-yearly, on the 1st January and the 1st July.

VII. No expense for the hire of a room for the meeting of the Board will be allowed unless the previous sanction of the Secretary of State be obtained.

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(*a*) Official.

VIII. No furniture for the use of the Board must be obtained without the previous sanction of the Secretary of State.

IX. All books, stationery, and printing must be procured from Her Majesty's Stationery Office; the requisitions for such, however, must, in the first instance, be addressed to the Under-Secretary of State, Home Office. This regulation includes the supplies of stationery, &c., for the candidates at the examination, and the printing of the necessary examination papers, the demands for which must be sent in at least fifteen days prior to the examination.

X. All correspondence must be forwarded under cover to the Secretary of State, for the purpose of having the postage franked, but in cases of exceptional urgency, letters may be transmitted through the post in the ordinary way. A detailed account of the postage thus incurred by the Secretary must be kept in a book to be provided for that purpose, and he will be from time to time recouped the amount expended. Letters addressed to the Home Office need not be prepaid. (Book B. Form K.)

XI. In case of any exceptional expenditure, it must be understood that no claim for the repayment of the same will be admitted unless the previous sanction of the Secretary of State has been obtained.

XII. The Board will from time to time report to the Secretary of State any vacancies which may occur in their number.

XIII. The number of Examiners to be appointed by the Board must not exceed three; they will act for the entire district.

XIV. The Examiners may be members of the Board, if the consent of the Secretary of State has been first obtained, but not otherwise.

XV. The remuneration to each Examiner for each examination will be a fixed fee of 10*l.*, together with a capitation fee of 5*s.* for each First Class candidate examined, and 2*s.* for each Second Class candidate examined, and an allowance of 5*l.* for expenses. No further allowance can be made should an Examiner, not being a member of the Board, be required to attend a Board Meeting.

XVI. When a Board Meeting and an Examination are held on the same day, an Examiner who is also a member of the Board will not be allowed, as a member of the Board, to make any charge under Rule I. for attending such Board Meeting.

XVII. The examinations will be, except as hereinafter provided, held annually, at such time and place as the Secretary of State may appoint, upon its being notified to him that a number of not less than five candidates are desirous of presenting themselves to be examined. Provided that, if special circumstances should arise in any district which, in the opinion of the Board, render the holding of a second examination in the year desirable, the Secretary of State, on receiving their report through the Secretary, reserves to himself the power of ordering, if he should see fit, such additional examination to be held at such time and place as he may appoint.

XVIII. The Secretary will, before such examination is held, report to the Secretary of State what arrangement the Board proposes to make relative to the hire of a room or rooms in which to

hold the examination. No expense for the hire of any room or rooms for that purpose will be allowed unless the previous sanction of the Secretary of State has been obtained for it. (Form F.)

XIX. Before the examination papers are delivered to the candidates, the Secretary to the Board will collect from each candidate (1) the Home Office authorization for appearing before the Board of Examination, and (2) such documents as may be prescribed by the Board as evidence of the candidate's sobriety, experience, ability, and general good conduct, and no candidate may be permitted to proceed to be examined who fails to produce the authority and documents aforesaid.

XX. The examination will be continued from day to day until completed. A candidate who fails to satisfy the Examiners at any examination will have to pay for a fresh authorization before he can be examined a second time.

XXI. If, from any cause, any person desirous of being examined fails to satisfy the Board that he is eligible for examination, the Secretary must return to the candidate his unused authorization.

XXII. The Examiners will report (in duplicate) to the Secretary of State, through the Secretary, the result of the examination in the form prescribed. They will, with this report, transmit the authorization for the examination of each candidate, first having cancelled the authorization by writing the date of the examination across it. (Forms G. & H.)

XXIII. The remuneration and allowance will be paid to the Examiners at the conclusion of each examination, upon receipt of their claims, and of the report (see Rule XXII.). (Form I.)

XXIV. At the conclusion of the examination the Secretary will transmit to the Home Office a claim from the proprietor of the room for the amount due, which will be paid to the proprietor by the Home Office. (Form K.)

XXV. The Secretary will be required to produce vouchers for all expenses paid by him, *e.g.*, the carriage of parcels, gratuities paid to the attendant at the examinations, &c., &c.

XXVI. All communications addressed to the Secretary of State must be written on paper of foolscap size, and, if referring to previous correspondence, the Home Office Register Number must be quoted.

Home Office, Whitehall,
*1st January*, 1895.

# Appendix V.

## *INFORMATION for Candidates for Examination as Managers and Under-Managers under the Coal Mines Regulation Act*, 1887 (*a*).

### Certificates of Competency, First and Second Class.

*Establishment of District Boards for appointing Examiners.*

Whereas, in pursuance of section 78 of the above-mentioned Act, the Boards for appointing Examiners for Certificates of Competency under the repealed Coal Mines Regulation Act, 1872, continue to act and generally to be in the same position as if they had been respectively appointed under the said Act of 1887; and whereas, in pursuance of section 23 of the said Act of 1887, the Secretary of State for the Home Department has determined that the said boards shall continue to be constituted as heretofore for each district in charge of an inspector of mines: Notice is hereby given that the undermentioned persons are appointed to act as secretaries to the several Boards for Examinations for the purpose of the grant of Managers' and Under-Managers' Certificates of Competency under the above-named Act of 1887.

Applicants desirous of being examined for first or second class certificates of competency should, therefore, apply for all necessary information to the secretary to the Board for that district in which they desire to be examined.

| No. of Mining District. | Name of Mining District. | Name and Address of Mines Inspector. | Name and Address of the Secretary to the Board for Examinations. | Place where and Month in which the Examination is held. |
|---|---|---|---|---|
| 1 | East Scotland District. | J. B. Atkinson, Esq., 10, Foremount Terrace, Glasgow. | Robert Calder, Esq., 3, Fintry Place, Broughty Ferry, N.B. | Edinburgh. *May.* |
| 2 | West Scotland District. | J. M. Ronaldson, Esq., 44, Athole Gardens, Glasgow. | Stuart Foulis, Esq., 140, Hope Street, Glasgow. | Glasgow. *November.* |
| 3 | Newcastle District. | J. L. Hedley, Esq., 2, Devonshire Terrace, Newcastle-on-Tyne. | M. Walton Brown, Esq., Neville Hall, Newcastle-on-Tyne. | Newcastle-on-Tyne. *January.* |
| 4 | Durham District .. | Thomas Bell, Esq., Durham. | Geo. W. Bartlett, Esq., Red Hall, Haughton-le-Skerne, Darlington. | Darlington. *July.* |
| 5 | Yorkshire and Lincolnshire District. | F. N. Wardell, Esq., Wath-on-Dearne, Rotherham. | J. R. Jeffery, Esq., 5, Piccadilly, Bradford. | Leeds. *June.* |

(*a*) Issued officially.

| No. of Mining District. | Name of Mining District. | Name and Address of Mines Inspector. | Name and Address of the Secretary to the Board for Examinations. | Place where and Month in which the Examination is held. |
|---|---|---|---|---|
| 6 | Manchester District, including Ireland. | JOHN GERRARD, Esq., Worsley, Manchester. | T. RATCLIFFE ELLIS, Esq., 18, King Street, Wigan. | Manchester. *December.* |
| 7 | Liverpool District, including North Wales. | HENRY HALL, Esq., Rainhill, Lancashire. | T. RATCLIFFE ELLIS, Esq., 18, King Street, Wigan. | Wigan. *June.* |
| 8 | Midland District .. | A. H. STOKES, Esq., Green Hill, Derby. | W. SAUNDERS, Esq., Wilson Street, Derby. | Nottingham. *October.* |
| (9 | Metalliferous Mining District.) | | | |
| 10 | North Staffordshire District. | W. N. ATKINSON, Esq., Newcastle, Staffordshire. | J. KNIGHT, Esq., Newcastle, Staffordshire. | Newcastle, Staff. *June.* |
| 11 | South Staffordshire District. | W. B. SCOTT, Esq., Great Barr, Birmingham. | R. S. WILLIAMSON, Esq., Cannock Wood House, Hednesford. | Birmingham. *January.* |
| 12 | South-Western District. | J. S. MARTIN, Esq., Durdham Park, near Bristol. | S. J. THOMAS, Esq., Forest House, Coleford. | Newport. *September.* |
| 13 | South Wales District. | J. T. ROBSON, Esq., Swansea. | ROBERT T. REES, Esq., Glandare, Aberdare. | Cardiff. *March.* |

*Certificates of Competency.*

The fee to be paid by an applicant for examination is—

(1.) For a 1st class certificate of competency, 2*l.*
(2.) For a 2nd class certificate of competency, 1*l.*

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*Any person desirous of being examined must make an application to the Secretary of State, in the form hereunder set forth, enclosing therein a post office order, or postal note, for the fee of 2l. or 1l., as the case may be, in favour of Carey Knyvett, Esq., C.B., Home Office, Whitehall, London, S.W., made payable at the General Post Office. The applicant will then receive from the Home Office an authority to present himself for examination before the examiners appointed for the district.*

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### Form of Application for Examination.

*Date* ———.
*Full postal address* ———.

Sir,—I have the honour to inform you that I am desirous of presenting myself to be examined by the examiners for the district of ——— for a (first or second class) certificate of competency as (manager or under-manager) of a mine, and I enclose a post office order for the sum of (2*l.* or 1*l.*).

I am, Sir,
Your obedient servant,
———.

To the Right Hon. the Secretary of State,
Home Office, London, S.W.

To be accompanied by statement, on paper of *foolscap* size :—

| | |
|---|---|
| 1. Name and address, in full, of applicant for (first or second class) certificate. | 1. |
| 2. Name of the district in which the applicant wishes to be examined. | 2. |

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### Certificates of Service.

*Notice relating to Applicants for Certificates of Service.*

Any person who satisfies the Secretary of State either that, before the passing of the Act (16th September, 1887) he was exercising, and has since that date exercised, or that he has at any time within five years before the passing of the Act, for a period of not less than twelve months, exercised functions substantially corresponding to those of an under-manager in a mine, is entitled to a certificate of service, which shall have the same effect, for the purposes of the Act, as a second class certificate of competency granted under the Act (sect. 80).

The fee to be paid by an applicant for a certificate of service is five shillings.

Forms of application, containing full directions and particulars, will be supplied to applicants by the Home Office, on request being made in the form hereunder :—

Sir,—I have the honour to apply for a form of application for a certificate of service as under-manager of a mine.

I am, Sir,
Your obedient servant,
———.

To the Right Hon.
The Secretary of State,
Home Office, London, S.W.

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ORDER FIXING FEES FOR COPIES OF CERTIFICATES.

*Coal Mines Regulation Act*, 1887.

The Right Honourable Henry Matthews, one of Her Majesty's principal Secretaries of State, in pursuance of the power vested in me by section 30 and Schedule II. of the Coal Mines Regulation Act, 1887 (50 & 51 Victoria, chapter 58), do hereby direct that the sum of five shillings shall be the fee to be paid in respect of a certified copy of a first class certificate of competency or of a certificate of service as manager of a mine under the said Act.

Also that the sum of two shillings and sixpence shall be the fee to be paid in respect of the issue of a certified copy of a second class certificate, whether of competency or of service as under-manager of a mine under the said Act.

Given under my hand, at Whitehall, this 19th day of November, 1888.

HENRY MATTHEWS,

One of Her Majesty's Principal Secretaries of State.

[NOTE BY AUTHORS.—*The list of secretaries to examining boards for the various districts and their addresses will be found* ante, *pp.* 140, 141. *A candidate will in every case do well to write to the secretary of the examining board for his district for full and detailed information as to subjects fixed for examination, marks obtainable in each subject, list of books suggested, and inquiry generally as to the examination. Details may vary in each district, and from time to time.*]

# Appendix VI.

## THE TRUCK ACTS, 1831—1896.

### THE TRUCK ACT, 1831 (*a*).

(1 & 2 Will. IV. c. 37.)

*An Act to prohibit the Payment, in certain Trades, of Wages in Goods, or otherwise than in the current Coin of the Realm.* [15th October, 1831.]

Whereas it is necessary to prohibit the payment, in certain trades, of wages in goods, or otherwise than in the current coin of the realm; Be it therefore enacted, &c.

"The clear intention of the Truck Acts was to ensure to workmen the payment of the entire amount of their wages in actual current coin of the realm, unfettered by any promise or obligation that it should be spent in any particular manner, or at any particular shop. The legislature endeavoured to secure that the workman might have in his hand the very actual coin representing his wages, in order that he and his family might freely carry it home, or expend it without impediment in the open market. Subject to certain exceptions, to be considered hereafter, such was (speaking broadly) the object of this legislation. The Truck Act of 1831—with which alone for the practical purposes of this case we need concern ourselves, for the statute of 1887 does not substantially differ so far as this case is concerned—attempted to enforce this object by rendering illegal every payment or contract for payment of wages except in the mode provided by the Act. One head of sections imposed penalties upon all those who made such illegal contracts or payments. Another class of sections, the range of which was not altogether commensurate with the former, gave the right to the workmen to recover the arrears of wages not actually paid over in coin, while it prevented the employer from setting up, in answer to such action, some rights of set-off of which he might otherwise, at law, have availed himself, while, on the other hand, other rights of set-off were still left available to the employer": Per Bowen, L. J., in *Hewlett* v. *Allen & Sons*, [1892] 2 Q. B. D. at p. 664.

**1.** *Contracts for the hiring of Artificers must be made in the Current Coin of the Realm.*]—In all contracts hereafter to be made for the

(*a*) This short title is conferred by the Truck Act, 1887 (50 & 51 Vict. c. 46, s. 1), *post*. The collective short title of the Truck Acts, 1831—1896, is conferred upon the various Truck Acts by the Truck Act, 1896 (59 & 60 Vict. c. 44), s. 12.

hiring of any artificer [in any of the trades hereinafter enumerated], or for the performance by any artificer of any labour [in any of the said trades] the wages of such artificer shall be made payable in the current coin of this realm only, and not otherwise; and if in any such contract the whole or any part of such wages shall be made payable in any manner other than in the current coin aforesaid, such contract shall be and is hereby declared illegal, null, and void.

"Contracts" are defined in sect. 25, *post*. See also sect. 6 of the Truck Act, 1887, *post*.

The words printed in dark type within square brackets are repealed by the Statute Law Revision Act, 1891. They referred to sect. 19 of the present Act, which is also itself repealed.

2. *And must not contain any Stipulations as to the manner in which the Wages shall be expended.*]—If in any contract hereafter to be made between any artificer in any of the trades hereinafter enumerated, and his employer, any provision shall be made directly or indirectly respecting the place where, or the manner in which, or the person or persons with whom, the whole or any part of the wages due or to become due to any such artificer shall be laid out or expended, such contract shall be and is hereby declared illegal, null, and void.

3. *All Wages must be paid to the Workman in Coin—Payment in Goods declared illegal.*]—The entire amount of the wages earned by or payable to any artificer in any of the trades hereinafter enumerated, in respect of any labour by him done in any such trade, shall be actually paid to such artificer in the current coin of this realm, and not otherwise; and every payment made to any such artificer by his employer, of or in respect of any such wages, by the delivering to him of goods, or otherwise than in the current coin aforesaid, except as hereinafter mentioned, shall be and is hereby declared illegal, null, and void.

By sect. 8 of this Act, *post*, banknotes are made equivalent to current coin.

By sect. 8 of the Truck Act, 1887, deductions for sharpening tools, &c., and, by sect. 9 of that Act, deductions in any form for interest, &c., on payments of wages made in advance are also prohibited; and by sect. 10 of that Act the above section is made to apply to articles of less value than 5*l*. in value of certain descriptions, unless when its application is suspended by Order in Council.

The Truck Act, 1896, regulates deductions for fines (sect. 1), damaged goods (sect. 2), or materials (sect. 3); but it is by the same Act declared that allowances of food, non-intoxicating drink, or a cottage to a servant in husbandry shall not be illegal. (See sect. 4, *post*.)

4. *Artificers may recover Wages, if not paid in the Current Coin.*]—Every artificer in any of the trades hereinafter enumerated shall be entitled to recover from his employer in any such trade, in the manner by law provided for the recovery of servants wages, or by any other lawful ways and means, the whole or so much of the wages earned by such artificer in such trade as shall not have been actually paid to him by such his employer in the current coin of this realm.

But an artificer or workman may so act as to waive his right to sue under the above section. (*Hewlett* v. *Allen & Sons*, [1892] 2 Q. B. D. 662.)

5. *In an action brought for Wages no Set-off shall be allowed for Goods supplied by the Employer, or by any Shop in which the Employer is interested.*]—In any action, suit, or other proceeding to be hereafter brought or commenced by any artificer, against his employer, for the recovery of any sum of money due to any such artificer as the wages of his labour, the defendant shall not be allowed to make any set-off, nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods, wares, or merchandize had or received by the plaintiff as or on account of his wages or in reward for his labour, or by reason or in respect of any goods, wares, or merchandize sold, delivered, or supplied to such artificer at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

The above section is printed as amended by the Statute Law Revision Act, 1891.

Sects. 5 and 6 of the Truck Act, 1887, *post*, must be read in connection with the above section.

6. *No Employer shall have any Action against his Artificer for Goods supplied to him on account of Wages.*]—No employer of any artificer in any of the trades hereinafter enumerated shall have or be entitled to maintain any suit or action in any Court of law or equity against any such artificer, for or in respect of any goods, wares, or merchandize sold, delivered, or supplied to any such artificer by any such employer, whilst in his employment, as or on account of his wages or reward for his labour, or for or in respect of any goods, wares, or merchandize sold, delivered, or supplied to such artificer at any shop or warehouse kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

Sect. 5 of the Truck Act, 1887, must be read in conjunction with the above section.

7. [*If the Artificer or his Wife or Children become chargeable to the Parish, the Overseers may recover any Wages earned within the Three preceding Months, and not paid in Cash.*]

8. *Not to invalidate the Payment of Wages in Bank Notes, if Artificer consents.*]—Provided always, and be it further enacted, that nothing herein contained shall be construed to prevent or to render invalid any contract for the payment, or any actual payment, to any artificer, of the whole or any part of his wages, either in the notes of the Governor and Company of the Bank of England, or in the notes of any person or persons carrying on the business of a banker, and duly licensed to issue such notes in pursuance of the laws relating to his Majesty's revenue of stamps, or in drafts or orders for the payment of money to the bearer on demand, drawn upon any person or persons carrying on the business of a banker, being duly licensed as aforesaid, within fifteen miles of the place where such drafts or orders shall be so paid, if such artificer shall be freely consenting to receive such drafts or orders as aforesaid, but all payments so made with such consent as aforesaid, in any

such notes, drafts, or orders as aforesaid, shall for the purposes of this Act be as valid and effectual as if such payments had been made in the current coin of the realm.

**9.** *Penalties on Employers entering into Contracts hereby declared illegal.*]—Any employer of any artificer in any of the trades hereinafter enumerated, who shall, by himself or by the agency of any other person or persons, directly or indirectly enter into any contract or make any payment hereby declared illegal, shall for the first offence forfeit a sum not exceeding ten pounds * * * and for the second offence any sum not exceeding twenty pounds nor less than ten pounds, and in case of a third offence any such employer shall be and be deemed guilty of a misdemeanour, and, being thereof convicted, shall be punished by fine only, at the discretion of the Court, so that the fines shall not in any case exceed the sum of one hundred pounds.

This Act originally provided that the penalty for a first offence against the Act should not be less than 5*l.*, but the Summary Jurisdiction Act, 1884 (47 & 48 Vict. c. 42, s. 4, and sched.), repealed this provision, which was contained in words formerly inserted where the * * * now are.

*The Truck Act*, 1887, *repealed sects.* **10**, **11**, *and* **12** *of the Act, as they only related to procedure, and sufficient provisions as to this, in cases arising under the Truck Acts, are contained in the Summary Jurisdiction Acts.*

**13.** *A Partner not to be liable in Person for the offence of his Copartner, but the Partnership Property to be so liable.*]—No person shall be liable to be convicted of any offence against this Act committed by his or her copartner in trade, and without his or her knowledge, privity, or consent; but it shall be lawful, when any penalty, or any sum for wages, or any other sum, is ordered to be paid, under the authority of this Act, and the person or persons ordered to pay the same shall neglect or refuse to do so, to levy the same by distress and sale of any goods belonging to any copartnership concern or business in the carrying on of which such charges may have become due or such offence may have been committed; and in all proceedings under this Act to recover any sum due for wages it shall be lawful in all cases of copartnership for the justices, at the hearing of any complaint for the nonpayment thereof, to make an order upon any one or more copartners for the payment of the sum appearing to be due; and in such case the service of a copy of any summons or other process, or of any order, upon one or more of such copartners, shall be deemed to be a sufficient service upon all.

**14.** *How Summonses are to be served.*]—In all cases it shall be deemed and taken to be sufficient service of any summons to be issued against any offender or offenders by any justice or justices of the peace, under the authority of this Act, if a duplicate or true copy of the same be left at or upon the place used or occupied by such offender or offenders for carrying on his, her, or their trade or business, or at the place of residence of any such offender or offenders, being at or upon any such place as aforesaid, the same

being directed to such offender or offenders by his, her, or their right or assumed name or names.

*The Truck Act*, 1887 (post), *repealed sects.* **15** *and* **16** *of the Act of* 1831, *which had reference only to forms of convictions, and were rendered unnecessary by the provisions of the Summary Jurisdiction Acts.*

**17.** *Convictions not to be quashed for want of Form.*]—No conviction, order, or adjudication made by any justices of the peace under the provisions of this Act shall be quashed for want of form, nor be removed by certiorari or otherwise into any of his Majesty's superior Courts of record; [and no warrant of distress, or of commitments in default of sufficient distress, shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same].

The latter words of the above section are now only in force in Ireland, and are repealed as to the rest of the country. (See Statute Law Revision Act, 1891.)

*Sects.* **18** *and* **19** *of the Act are repealed by the Truck Act*, 1887 (post).

**20.** *Domestics.*]—Nothing herein contained shall extend to any domestic servant or servant in husbandry.

Servants in husbandry are now within the Truck Act, as sect. 2 of the Truck Act, 1887 (*post*, p. 150), adopts the definition "servant" contained in the Employers and Workmen Act, 1875. But cottages may still be provided by their employers for servants in husbandry, by sect. 4 of the Truck Act, 1887 (*post*, p. 151).

*Sects.* **21** *and* **22** *of the Act are repealed by the Truck Act*, 1887.

**23.** *Particular Exceptions to the Generality of the Law.*]—Nothing herein contained shall extend or be construed to extend to prevent any employer of any artificer, or agent of any such employer, from supplying or contracting to supply to any such artificer any medicine or medical attendance, or any fuel, or any materials, tools, or implements to be by such artificer employed in his trade or occupation, if such artificers be employed in mining, or any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such artificer in his trade and occupation; nor from demising to any artificer * * * the whole or any part of any tenement at any rent to be thereon reserved; nor from supplying or contracting to supply to any such artificer any victuals dressed or prepared under the roof of any such employer, and there consumed by such artificer; nor from making or contracting to make any stoppage or deduction from the wages of any such artificer, for or in respect of any such rent; or for or in respect of any such medicine or medical attendance; or for or in respect of such fuel, materials, tools, implements, hay, corn, or provender, or of any such victuals dressed and prepared under the roof of any such employer; or for or in respect of any money

advanced to such artificer for any such purpose as aforesaid: Provided always, that such stoppage or deduction shall not exceed the real and true value of such fuel, materials, tools, implements, hay, corn, and provender, and shall not be in any case made from the wages of such artificer, unless the agreement or contract for such stoppage or deduction shall be in writing, and signed by such artificer.

The words omitted at the * * * are repealed by the Statute Law Revision Act, 1891, and relate to sect. 19 of this Act, which is also repealed.

The Truck Act, 1887, enacts that deductions for sharpening tools, &c., are not to be made without the written consent of the workman (sect. 8); and also that accounts of deductions for education, medical attendance, and tools are to be rendered and audited. (*Ibid.*, sect. 9.)

24. *Employers may advance Money to Artificers for certain Purposes.*]—And be it further enacted and declared, that nothing herein contained shall extend or be construed to extend to prevent any such employer from advancing to any such artificer any money to be by him contributed to any friendly society or bank for savings duly established according to law, nor from advancing to any such artificer any money for his relief in sickness, or for the education of any child or children of such artificer, nor from deducting or contracting to deduct any sum or sums of money from the wages of such artificers for the education of any such child or children of such artificer, and *unless the agreement or contract for such deduction shall be in writing, and signed by such artificer.

In construing the above section, the word "unless," at the place where marked with an (*), must be read as "if," by mistake for which it evidently got by accident into the section. Probably some such words as "no such agreement or contract shall be valid," were intended to precede it. See, further, sects. 7, 8, and 9 of the Truck Act, 1887.

25. *Definition of Terms.*]—In the meaning and for the purposes of this Act * * * any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, whether direct or indirect, to which the employer and artificer are parties or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them, shall be and be deemed a "contract."

In consequence of the enactment contained in sect. 2 of the Truck Act, 1887 (*post*), many words originally contained in the Act where the asterisks occur must be regarded as repealed, and are accordingly omitted.

26. [*Commencement of Act—Three Calendar Months next after Day of passing.*]

27. [*Provisions of Act to extend over Great Britain.*]

## THE TRUCK AMENDMENT ACT, 1887 (*a*).

### (50 & 51 Vict. c. 46.)

*An Act to amend and extend the Law relating to Truck.*

[16th September, 1887.]

Be it enacted, &c., as follows:—

1. *Short Title.*]—This Act may be cited as the Truck Amendment Act, 1887. The Act of the session of the first and second years of the reign of King William the Fourth, chapter thirty-seven, intituled "An Act to prohibit the payment in certain trades of wages in goods or otherwise than in the current coin of the realm" (in this Act referred to as the principal Act), may be cited as the Truck Act, 1831, and that Act and this Act may be cited together as the Truck Acts, 1831 and 1887, and shall be construed together as one Act.

2. *Application of principal Act to Workman as defined by* 38 & 39 *Vict.* c. 90.]—The provisions of the principal Act shall extend to, apply to, and include any workman as defined in the Employers and Workmen Act, 1875, section ten, and the expression "artificer" in the principal Act shall be construed to include every workman to whom the principal Act is extended and applied by this Act, and all provisions and enactments in the principal Act inconsistent herewith are hereby repealed.

Sect. 10 of the Employers and Workmen Act, 1875, is as follows:—

In this Act the expression "workman" does not include a domestic or menial servant, but save as aforesaid, means any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner, or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer, whether the contract be made before or after the passing of this Act, be express or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour.

The expression "The Summary Jurisdiction Act" means the Act of the session of the eleventh and twelfth years of the reign of her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to Summary Convictions and Orders," inclusive of any Acts amending the same.

The expression "Court of Summary Jurisdiction" means—

(1.) As respects the city of London, the Lord Mayor or any alderman of the said city sitting at the Mansion or Houes Guildhall Justice Room; and

(2.) As respects any police court division in the metropolitan police district, any metropolitan police magistrate sitting at the police court for that division; and

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(*a*) This short title is conferred by sect. 1 of the Act. See also the Truck Act, 1896 (59 & 60 Vict. c. 44), *post*, especially sect. 12 thereof.

(3.) As respects any city, town, liberty, borough, place, or district for which a stipendiary magistrate is for the time being acting, such stipendiary magistrate sitting at a police court or other place appointed in that behalf; and

(4.) Elsewhere any justice or justices of the peace to whom jurisdiction is given by the Summary Jurisdiction Act: Provided that, as respects any case within the cognizance of such justice or justices as last aforesaid, a complaint under this Act shall be heard and determined and an order for imprisonment made by two or more justices of the peace in petty sessions sitting at some place appointed for holding petty sessions.

Nothing in this section contained shall restrict the jurisdiction of the Lord Mayor or any alderman of the city of London, or of any metropolitan police or stipendiary magistrate in respect of any act or jurisdiction which may now be done or exercised by him out of Court.

3. *Advance of Wages.*]—Whenever by agreement, custom, or otherwise a workman is entitled to receive in anticipation of the regular period of the payment of his wages an advance as part or on account thereof, it shall not be lawful for the employer to withhold such advance or make any deduction in respect of such advance on account of poundage, discount, or interest, or any similar charge.

4. *Saving for Servant in husbandry.*]—Nothing in the principal Act or this Act shall render illegal a contract with a servant in husbandry for giving him food, drink, not being intoxicating, a cottage, or other allowances or privileges in addition to money wages as a remuneration for his services.

The above enactment was rendered necessary by the adoption, in sect. 2, of the definitions of "servant" contained in the Employers and Workmen Act, 1875. Previously to this, the Truck Acts, by sect. 20 of the Act of 1831, did not apply to servants in husbandry.

5. *Order for Goods as a deduction from Wages illegal.*]—In any action brought by a workman for the recovery of his wages, the employer shall not be entitled to any set off or counterclaim in respect of any goods supplied to the workman by any person under any order or direction of the employer, or any agent of the employer, and the employer of a workman or any agent of the employer, or any person supplying goods to the workman under any order or direction of such employer or agent, shall not be entitled to sue the workman for or in respect of any goods supplied by such employer or agent, or under such order or direction, as the case may be.

Provided that nothing in this section shall apply to anything excepted by section twenty-three of the principal Act.

6. *No Contracts with Workman as to spending Wages at any particular shop, &c.*]—No employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any workman any terms as to the place at which, or the manner in which, or the person with whom, any wages or portion of wages paid to the workman are or is to be expended, and no employer shall by himself or his agent dismiss

any workman from his employment for or on account of the place at which, or the manner in which, or the person with whom, any wages or portion of wages paid by the employer to such workman are or is expended or fail to be expended.

See, in connection with the above section, sect. 5 of the Truck Act, 1831.

7. *Deduction for Education.*]—Where any deduction is made by an employer from a workman's wages for education, such workman on sending his child to any state-inspected school selected by the workman shall be entitled to have the school fees of his child at that school paid by the employer at the same rate and to the same extent as the other workmen from whose wages the like deduction is made by such employer.

In this section "state-inspected school" means any elementary school inspected under the direction of the Education Department in England or Scotland or of the Board of National Education in Ireland.

By sect. 9 of this Act (*post*), any deductions made under the above sections must be submitted to audit.

8. *Deduction for Sharpening Tools, &c.*]—No deduction shall be made from a workman's wages for sharpening or repairing tools, except by agreement not forming part of the condition of hiring.

By the Truck Act, 1896, s. 6, any contract must be, on demand, produced to an inspector of mines, under a penalty of 40*s*.

9. *Audit of Deductions.*]—Where deductions are made from the wages of any workmen for the education of children or in respect of medicine, medical attendance, or tools, once at least in every year the employer shall, by himself or his agent, make out a correct account of the receipts and expenditure in respect of such deductions, and submit the same to be audited by two auditors appointed by the said workmen, and shall produce to the auditors all such books, vouchers, and documents, and afford them all such other facilities as are required for such audit.

Deductions for education are authorized by sect. 7 of this Act (*supra*), and deductions for medicine are authorized by sect. 23 of the Truck Act, 1831.

10. *Artificer to be paid in Cash and not by way of Barter for Articles made by him.*]—Where articles are made by a person at his own home, or otherwise, without the employment of any person under him except a member of his own family, the principal Act and this Act shall apply as if he were a workman, and the shopkeeper, dealer, trader, or other person buying the articles in the way of trade were his employer, and the provisions of this Act with respect to the payment of wages shall apply as if the price of an article were wages earned during the seven days next preceding the date at which any article is received from the workman by the employer.

This section shall apply only to articles under the value of five pounds knitted or otherwise manufactured of wool, worsted, yarn, stuff, jersey, linen, fustian, cloth, serge, cotton, leather, fur, hemp, flax, mohair, or silk, or of any combination thereof, or made or

prepared of bone, thread, silk, or cotton lace, or of lace made of any mixed materials. Where it is made to appear to her Majesty the Queen in Council that, in the interests of persons making articles to which this section applies in any county or place in the United Kingdom, it is expedient so to do, it shall be lawful for her Majesty, by Order in Council, to suspend the operation of this section in such county or place, and the same shall accordingly be suspended, either wholly or in part, and either with or without any limitations or exceptions, according as is provided by the Order.

11. *Offences.*]—If any employer or his agent contravenes or fails to comply with any of the foregoing provisions of this Act, such employer or agent, as the case may be, shall be guilty of an offence against the principal Act, and shall be liable to the penalties imposed by section nine of that Act as if the offence were such an offence as in that section mentioned.

12. *Fine on Person committing Offence for which Employer is liable, and Power of Employer to exempt himself from Penalty on Conviction of Actual Offender.*]—(1.) Where an offence for which an employer is, by virtue of the principal Act or this Act, liable to a penalty has in fact been committed by some agent of the employer or other person, such agent or other person shall be liable to the same penalty as if he were the employer.

(2.) Where an employer is charged with an offence against the principal Act or this Act he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved the employer proves to the satisfaction of the Court that he had used due diligence to enforce the execution of the said Acts, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the employer shall be exempt from any penalty.

When it is made to appear to the satisfaction of an inspector of factories or mines, or in Scotland a procurator fiscal, at the time of discovering the offence, that the employer had used due diligence to enforce the execution of the said Acts, and also by what person such offence had been committed, and also that it had been committed without the knowledge, consent, or connivance of the employer, then the inspector or procurator fiscal shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

13. *Recovery of Penalties.*]—(1.) Any offence against the principal Act or this Act may be prosecuted, and any penalty therefor recovered in manner provided by the Summary Jurisdiction Acts, so, however, that no penalty shall be imposed on summary conviction exceeding that prescribed by the principal Act for a second offence.

(2.) It shall be the duty of the inspectors of factories and the inspectors of mines to enforce the provisions of the principal Act and this Act within their districts so far as respects factories, workshops, and mines inspected by them respectively, and such inspectors shall for this purpose have the same powers and authorities as they respectively have for the purpose of enforcing the

provisions of any Acts relating to factories, workshops, or mines, and all expenses incurred by them under this section shall be defrayed out of moneys provided by Parliament.

(3.) In England all penalties recovered under the principal Act and this Act shall be paid into the receipt of her Majesty's Exchequer, and be carried to the Consolidated Fund.

(4.) In Scotland—

(a) The procurators fiscal of the Sheriff Court shall, as part of their official duty, investigate and prosecute offences against the principal Act or this Act, and such prosecution may also be instituted in the Sheriff Court at the instance of any inspector of factories or inspector of mines;

(b) All offences against the said Acts shall be prosecuted in the Sheriff Court.

14. *Definitions.*]—In this Act, unless the context otherwise requires,—

The expression "Summary Jurisdiction Acts" means, as respects England, the Summary Jurisdiction Acts as defined by the Summary Jurisdiction Act, 1879; and, as respects Scotland, means the Summary Jurisdiction (Scotland) Acts, 1864 and 1881, and any Acts amending the same:

Other expressions have the same meaning as in the principal Act.

15. *Disqualification of Justice.*]—So much of the principal Act as disqualifies any justice from acting as such under the principal Act is hereby repealed.

A person engaged in the same trade or occupation as an employer charged with an offence against the principal Act or this Act shall not act as a justice of the peace in hearing and determining such charge.

16. *Amendment of* 1 *&* 2 *Will.* 4, *c.* 37, *as to Overseers.*]—The provisions of the principal Act conferring powers on any overseers or overseer of the poor shall be deemed to confer those powers in the case of England on the guardians of a union, and in the case of Scotland on the inspectors of the poor.

17. *Repeal.*]—The Acts mentioned in the schedule to this Act are hereby repealed to the extent in the third column of the said schedule mentioned, without prejudice to anything heretofore done or suffered in respect thereof.

18. *Application of Acts to Ireland.*]—The principal Act, so far as it is not hereby repealed, and this Act shall extend to Ireland, subject to the following provisions:

(1.) Any offence against the principal Act or this Act may be prosecuted and any penalty therefor may be recovered in the manner provided by the Summary Jurisdiction (Ireland) Acts; (that is to say,) within the Dublin Metropolitan Police District the Acts regulating the powers and duties of justices of the peace and of the police of that district, and elsewhere in Ireland the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same;

(2.) Penalties recovered under the principal Act or this Act shall be applied in the manner directed by the Fines (Ireland) Act, 1851, and the Acts amending the same.

SCHEDULE.

| Session and Chapter. | Title of Act. | Extent of Repeal. |
|---|---|---|
| 12 Geo. 1, c. 34 | An Act to prevent unlawful combinations of workmen employed in the woollen manufactures, and for better payment of their wages. | Section three, and so much of section eight as applies section three. |
| 22 Geo. 2, c. 27 | An Act, the title of which begins with "An Act for the more effectual preventing of frauds," and ends with the words "and for the better payment of their wages." | So much of section twelve as applies to any enactment repealed by this Act. |
| 30 Geo. 2, c. 12 | An Act, the title of which begins with the words "An Act to amend an Act," and ends with the words "payment of the workmen's wages in any other manner than in money." | Sections two and three. |
| 57 Geo. 3, c. 115 | An Act, the title of which begins with the words "An Act to extend the provisions of an Act," and ends with the words "articles of cutlery." | The whole Act. |
| 57 Geo. 3, c. 122 | An Act, the title of which begins with the words "An Act to extend the provisions," and ends with the words "extending the provisions of the said Acts to Scotland and Ireland." | The whole Act. |
| 1 & 2 Will. 4, c. 37. | An Act to prohibit the payment in certain trades of wages in goods or otherwise than in the current coin of the realm. | Section ten, down to "be produced to the Court and jury" inclusive; section eleven, section twelve, section fifteen, section sixteen, section eighteen, section nineteen, in section twenty the words "or servant in husbandry;" section twenty-one, section twenty-two, section twenty-four from "and unless the agreement" inclusive to end of section, and section twenty-five from "all workmen" to "purposes aforesaid" both inclusive, and the schedules. |

## TRUCK ACT, 1896.

### (59 & 60 Vict. c. 44.)

*An Act to amend the Truck Acts.* [14th August, 1896.]

Be it enacted, &c., as follows:—

1. *Deductions or Payments in respect of Fines.*]—(1.) An employer shall not make any contract with any workman for any deduction from the sum contracted to be paid by the employer to the workman, or for any payment to the employer by the workman, for or in respect of any fine, unless—

(a) the terms of the contract are contained in a notice kept constantly affixed at such place or places open to the workmen and in such a position that it may be easily seen, read, and copied by any person whom it affects; or the contract is in writing, signed by the workman; and

(b) the contract specifies the acts or omissions in respect of which the fine may be imposed, and the amount of the fine or the particulars from which that amount may be ascertained; and

(c) the fine imposed under the contract is in respect of some act or omission which causes or is likely to cause damage or loss to the employer, or interruption or hindrance to his business; and

(d) the amount of the fine is fair and reasonable having regard to all the circumstances of the case.

(2.) An employer shall not make any such deduction or receive any such payment, unless—

(a) the deduction or payment is made in pursuance of, or in accordance with, such a contract as aforesaid; and

(b) particulars in writing showing the acts or omissions in respect of which the fine is imposed and the amount thereof are supplied to the workman on each occasion when a deduction or payment is made.

(3.) This section shall apply to the case of a shop assistant in like manner as it applies to the case of a workman.

2. *Deductions or Payments in respect of Damaged Goods.*]—(1.) An employer shall not make any contract with any workman for any deduction from the sum contracted to be paid by the employer to the workman, or for any payment to the employer by the workman for or in respect of bad or negligent work or injury to the materials or other property of the employer, unless—

(a) the terms of the contract are contained in a notice kept constantly affixed at such place or places open to the workmen and in such a position that it may be easily seen, read, and copied by any person whom it affects; or the contract is in writing, signed by the workman; and

(b) the deduction or payment to be made under the contract does not exceed the actual or estimated damage or loss occasioned to the employer by the act or omission of the workman, or of some person over whom he has control, or for whom he has by the contract agreed to be responsible; and

(c) the amount of the deduction or payment is fair and reasonable, having regard to all the circumstances of the case.

(2.) An employer shall not make any such deduction or receive any such payment unless—

(a) the deduction or payment is made in pursuance of, or in accordance with, such a contract as aforesaid; and

(b) particulars in writing showing the acts or omissions in respect of which the deduction or payment is made and the amount thereof are supplied to the workman on each occasion when a deduction or payment is made.

**3.** *Deductions or Payments in respect of Materials.*]—(1.) An employer shall not make any contract with any workman for any deduction from the sum contracted to be paid by the employer to the workman, or for any payment to the employer by the workman for, or in respect of, the use or supply of materials, tools or machines, standing room, light, heat, or for or in respect of any other thing to be done or provided by the employer in relation to the work or labour of the workman unless—

(a) the terms of the contract are contained in a notice kept constantly affixed at such place or places open to workmen, and in such a position that it may be easily seen, read, and copied by any person whom it affects; or the contract is in writing, signed by the workman; and

(b) the sum to be paid or deducted under the contract in respect of materials, tools or machines, standing room, light, heat, or any other thing, does not exceed, in the case of materials or tools supplied to the workman, the actual or estimated cost thereof to the employer, or in the case of the use of machinery, light, heat, or any other thing in this section mentioned, a fair and reasonable rent or charge, having regard to all the circumstances of the case.

(2.) An employer shall not make any such deduction or receive any such payment unless—

(a) the deduction or payment is made in pursuance of, and in accordance with, such a contract as aforesaid; and

(b) particulars in writing showing the things in respect of which the deduction or payment is made and the amount thereof are supplied to the workman on each occasion when a deduction or payment is made.

**4.** *Penalty.*]—If any employer enters into any contract contrary to this Act, or makes any deduction or receives any payment contrary to this Act, he shall be guilty of an offence against the Truck Act, 1831, and shall be liable to the penalties imposed by section nine of that Act as if the offence were an offence in that section mentioned.

**5.** *Recovery of Payments or Deductions.*]—Any workman or shop assistant may recover any sum deducted by or paid to his employer contrary to this Act, provided that proceedings for such recovery are commenced within six months from the date of the deduction or payment sought to be recovered, and that where he has consented to or acquiesced in any such deduction or payment, he shall only recover the excess which has been deducted or paid over the amount, if any, which the Court may find to have been fair and reasonable, having regard to all the circumstances of the case.

6. *Production of Contract.*]—(1.) Every employer who has made any contract purporting or intending to operate as a contract under this Act, shall, on demand in writing by one of her Majesty's inspectors of factories or of mines, produce the contract or a true copy thereof at any convenient time and place to be named by the inspector, and the inspector shall be at liberty to take a copy of the same or any part thereof, and the employer of any workman or shop assistant who is party to any such contract shall at the time of making the contract give the workman or shop assistant a copy of the contract or of the notice containing its terms.

(2.) A workman or shop assistant who is party to any such contract shall be entitled, on request, to obtain from his employer free of charge a copy of the contract or of the notice containing its terms.

(3.) Every employer who has made any contract purporting or intending to operate as a contract under section one of this Act shall keep a register of deductions or payments, and shall enter therein every deduction or payment for or in respect of any fine purporting to be made under any such contract, specifying the amount and the nature of the act or omission in respect of which the fine was imposed, and this register shall be at all times open to inspection by one of her Majesty's inspectors of factories or of mines.

(4.) If any person fails to comply with this section he shall be liable on summary conviction to a fine not exceeding forty shillings.

7. *Exemption of Contract from Stamp Duty.*]—A contract entered into under the provisions of this Act shall not be liable to stamp duty.

8. *Saving as to Contracts and Payments Illegal under existing Acts.*]—Nothing in this Act shall make lawful any contract or payment which is illegal under the Truck Acts, 1831 and 1887, or under the Hosiery Manufacture (Wages) Act, 1874, or affect the provisions of the Coal Mines Regulation Act, 1887, or any amending Act, with respect to persons employed in mines and paid according to weight, or make lawful any deduction from payments made to those persons.

9. *Power to exempt from provisions of Act.*]—(1.) The Secretary of State, if satisfied that the provisions of this Act are unnecessary for the protection of the workmen employed in any trade or business, or in any branch or department of any trade or business, either generally or within any specified area, may by order under his hand grant an exemption from those provisions in respect of the persons engaged in that trade, business, branch or department, either generally or within that area.

(2.) The Secretary of State may at any time amend or revoke any such order.

(3.) Every order made under this section shall be laid as soon as may be before both Houses of Parliament, and if either House within the next forty days after the order has been so laid before that House resolves that the order ought to be annulled, the order shall, after the date of that resolution, be of no effect, without prejudice to the validity of anything done in the meantime under the order or to the making of a new order.

**10.** *Duties of Inspectors.*]—Sub-section two of section thirteen of the Truck Amendment Act, 1887 (which relates to the duty of inspectors), shall apply in the case of a laundry, and in the case of any place where work is given out by the occupier of a factory or workshop, or by a contractor, or sub-contractor, in like manner as it applies in the case of a factory.

**11.** *Commencement 1st January*, 1897.]

**12.** *Short Title and Construction.*]—This Act may be cited as the Truck Act, 1896; and the Truck Acts, 1831 and 1887, and this Act shall be construed together as one Act and may be cited collectively as the Truck Acts, 1831 to 1896.

# Appendix VII.

## *As to the Law of CHECK WEIGHING.*

The subject of check weighing has, for more than a quarter of a century, been a very burning one in the mining world, and is unfortunately one upon which the law is not yet entirely clear.

So long ago as 1860, Mr. Ayrton endeavoured to settle the matter by a clause (sect. 29) which he introduced into the Coal Mines Regulation Act, passed by Lord Palmerston's government in that year. So recently as 1895, Mr. Asquith, who was then Home Secretary, endeavoured to deal with the matter in a Coal Mines Bill, brought in by him in the latter year. The Coal Mines Regulation Acts, 1887—96, contain, indeed, statutory provisions on the subject, and one of those Acts, namely, the Check Weighers Act, 1894, is entirely devoted to it. But, even if these statutory provisions now in force were generally accepted as final (which can hardly be said to be the case), their proper judicial construction certainly cannot be claimed to have been, as yet, finally settled. It would be wilfully shutting one's eyes to facts, not to frankly acknowledge that the most recent decision of the House of Lords on this much vexed subject—that in *Bourne* v. *The Netherseal Colliery Co.*, given in 1889—has not been universally received with that respect and ready acquiescence which the decisions of that august tribunal almost invariably command. Such dissatisfaction with this judgment, as cannot be denied to exist, probably, however, proceeds from a misapprehension of its scope. An attempt to alter the law as finally established by it was, as will be seen, made by Mr. Secretary Matthews in anticipation (*post*, p. 170), when he introduced the Act of 1887, the Courts below having at that time decided to the same effect as did the House of Lords subsequently. But the decision of the Court of Appeal in *Huggins* v. *The London and South Wales Colliery Co.* (otherwise *Brace* v. *Aberdare Colliery Co.*), cited *post*, p. 171, shews that this attempt was not entirely successful, and that the construction of the Act of 1887 is, in at least one important particular, the same as that of its predecessor, in consequence of the alterations in its original language, which were made during the passage of the 1887 Act through the House of Commons. In the opinion of the present authors, all that the House of Lords decided in 1889, on the construction of the Act of 1872, and all that the Court of Appeal has in the *Aberdare Case* (*post*, p. 171) since decided on the Act of 1887, is that under the circumstances of those particular cases, and especially in view of the contracts between the parties there proved to have been entered into, the deductions claimed could not be lawfully made. The decisions quoted, it is submitted, certainly do not establish that, upon general principles, an agreement not to pay for small coal or dirt, however it be framed, is in contravention of the law. The present authors regard the decisions as not having been intended to lay down any great or broad general principle, but think that

such cases were simply decided upon the particular facts. So far as they can see, the House of Lords in the *Netherseal Case* and the Court of Appeal in the cases which subsequently arose under the Act of 1887, carefully abstained from committing themselves to an academic statement of any broad principles at all, outside the special circumstances of the cases then before them. This appears to have been taken by Mr. Secretary Asquith, who, to remove all possible doubt, proposed by his Bill of 1895 (*ante*, p. 160), that it should be declared to be the law, by any "reasonable" agreement being expressly made lawful, the question whether an agreement was reasonable being left for determination in each particular case. And if the authors' view be correct, the general principle (if one can be established), which ought to run through all the decisions on this subject, has yet to be laid down, and is open for discussion and final decision in any cases, as to check weighing, which may arise in the future.

In any event, the subject of check weighing is of such great importance that the following extracts from a parliamentary paper, published in 1895, will prove of much interest, as showing a history of the subject, and containing a *résumé* of the decisions heretofore given with respect to it (*a*).

The first occasion upon which any statutory provisions respecting the weighing or measuring of coal were introduced was in the Coal Mines Act of 1860, which was introduced by Sir George Lewis, then Home Secretary, and by Mr. Bruce, during Lord Palmerston's last Government, when Mr. Gladstone was Chancellor of the Exchequer. The clause seems not to have been introduced by the Government, but to have been accepted by them on the proposal of Mr. Ayrton (see Hansard, vol. 159, p. 976).

By the Coal Mines Regulation Act of 1860, s. 29, it was provided, that "where the persons employed in any coal mine, colliery, or ironstone mine, are paid by the weight, measure, or gauge of the coal, ironstone, or other material gotten by them, such coal, ironstone, or other material shall be truly weighed, measured, or gauged accordingly." The Act also gave power to the men to appoint one of their number to take account of the weighing or measuring, but without any real powers of effectively checking it; nor does it appear from the Act that there was any power to the check weigher or the mines inspectors to check the weights or measures used, or to tare the tubs. Owing to the position of this section at the end of the Act, and to the guarded words of the penalties clause, it seems a little doubtful whether the penalties clause applied to it at all, or whether it was a mere amendment of the law of contract. At all events, it seems to have been very little acted upon; for in the years which succeeded, coal wages were paid (except in the north-east of England) chiefly by the

(*a*) Up to this point, the language of this Appendix is that of the Authors. But the whole of the remainder of the Appendix (including the comparison in parallel columns between the Acts of 1872 and 1887, and the *précis* of decided cases), consists of extracts from official papers issued by the Home Office in 1895, except where it is otherwise expressly indicated.

tub, without any attempt in most cases to gauge or measure the tub at all, nor does there appear to have been any prosecution for the breach of the above provision.

The abuses which this Act failed to remedy were exposed by the men before the Select Committee of the House of Commons of 1866—67 (see Parliamentary Papers, vol. xiv. of 1866, and vol. xiii. of 1867).

The case made by the men was that in the majority of mines they were paid by measurement, that is to say, sometimes by the tub and sometimes by the number of cubic yards of coal excavated, which was called the "yardage" system, and that they were obliged to heap up the tubs to an undue extent; and, moreover, that when new tubs were required for the mine the masters kept constantly making them larger and larger, without any corresponding increase in wages, and that there was a custom of forfeiting whole tubs which were insufficiently filled, or which contained an undue proportion of dirt or stones.

There is no doubt that the tubs had been gradually increasing in size, and often the wages did not increase with them. This increase cannot be ascribed to a design to cheat the men. It seems to have been a part of a general increase in size of shafts, roads, winding machinery, and in fact of the whole system, thus largely increasing the output of the mines. But in many places it had the effect of lowering earnings.

The remedy which the men demanded was that payment should only be made by weight; and they demanded more extended powers for the check weighmen. On the other hand, one of the leading inspectors of mines reported that there was no substantial grievance upon the weighing question, and doubted the expediency of the clause in the Act of 1860. There was, he said, only one colliery in his district (North and East Lancashire) where the coal was weighed, and he thought that the compulsion to weigh would give rise to expense.

This view was supported by a considerable body of evidence on the part of the owners, to show that measuring, if fairly conducted, was a fair method. Thus, for example, if dust were put in, it would tell by the weighing method, but by the measuring method it would merely fill up interstices and not be reckoned.

In the end the Committee declined to recommend that payment by weight should be made compulsory, and recommended that the choice of payment by measure or weight should be left to private contract.

This Committee finished its labours in the year 1867, during the Premiership of Mr. Disraeli. In December, 1868, Mr. Gladstone came into power, and Mr. Bruce became Home Secretary.

In 1871 a Mines Bill was brought in dealing with coal and other mines, but it met with considerable opposition, and was ultimately divided into two Bills, one for coal and the other for metalliferous mines, both of which were passed in 1872.

In the Coal Mines Bill of 1872 a section was introduced which forbad the use of measures as a mode of estimating quantities of coal, and provided that when the men were paid by the amount gotten, that amount should be determined by weight only. A con-

ference of masters and men was appointed, which sat in London at the Westminster Palace Hotel on March 14th—19th, 1872, and at which the Home Office was represented, but they were unable to agree upon the subject of check weighing.

The section does not seem to have given rise to much discussion, although it introduced a vast change. Its scope was explained by Earl Morley in the House of Lords, and defended on the ground that as coals are sold by weight the men ought to be paid by weight; and it was also explained that in order to meet the case of persons who could not afford to supply weighing machines, powers of exemption had been provided for by the Secretary of State. (Hansard, vol. 212, p. 1598.)

The weighing section of the Act of 1872 was in the words following:—

17. Where the amount of wages paid to any of the persons employed in a mine to which this Act applies depends on the amount of mineral gotten by them, such persons shall, after the first day of August one thousand eight hundred and seventy-three, unless the mine is exempted by a Secretary of State, be paid according to the weight of the mineral gotten by them, and such mineral shall be truly weighed accordingly.

Provided always, that nothing herein contained shall preclude the owner, agent or manager of the mine from agreeing with the persons employed in such mine that deductions shall be made in respect of stones or materials other than mineral contracted to be gotten, which shall be sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs, baskets, or hutches being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him, such deductions being determined by the banksman or weigher and check weigher (if there be one), or in case of difference by a third party to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other.

Where it is proved to the satisfaction of a Secretary of State that by reason of any exigencies existing in the case of any mine or class of mines to which the foregoing provision in this section applies, it is requisite or expedient that the persons employed in such mine or class of mines should not be paid by the weight of the mineral gotten by them, or that the beginning of such payment by weight should be postponed, such Secretary of State may, if he think fit, by order exempt such mine or class of mines from the provisions of this section, either without condition or during the time and upon the conditions specified in the order, or postpone in such mine or class of mines the beginning of such payment by weight, and may from time to time revoke or alter any such order.

If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section, he shall be guilty of an offence against this Act; and in the event of any contravention or of non-compliance with this section by any person whomsoever, the owner, agent, and

manager shall each be guilty of an offence against this Act, unless he prove that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent such contravention and non-compliance.

Now it will be observed that the obvious intention of the first clause was that wherever men were to be paid by the quantity of mineral gotten, (*a*) that quantity was to be estimated by *weight*, and (*b*) the mineral was to be truly weighed accordingly.

But the clause did not stop here. It was obviously impossible to weigh truly the actual coal in every case without providing a machine for separating it from stones and dirt and substances other than the mineral contracted to be gotten; and only a limited number of mines possessed the necessary screening and weighing apparatus, and, therefore, it was further provided that agreements might be made for deductions in respect (*a*) of dirt, and (*b*) of improper filling (*e. g.*, by the wrong sort of coal).

During the first few years after the passing of the Act a fair number of exemptions were granted, but under this section the use of measurement became gradually obsolete, until, in some ten years, nearly all the mines in the kingdom used weighing platforms. A very few exceptions still exist in the case of small mines.

Under the new system the hutches or tubs when they came up out of the shaft were run on rails to a weighing platform, the weight was then read by a weigher or banksman of the owners and checked by a check weigher.

Sometimes the dirt in the coal was merely estimated, and the coal was either sold with the dirt in it or else more or less hand picked.

Sometimes, again, a machine called "Billy Fairplay" was employed, and is now largely used. This is a screen which riddles out the dust and then weighs it automatically, the weight being shown upon a dial whose indications are noted and recorded. So that in mines which use this process the whole tub is first weighed, the contents are then tipped out on to a sieve, which riddles out and weighs the dust; the residue is then hand-picked to remove any stones which may be there, and, finally, is re-tipped on to a delivery waggon.

Here, of course, no disputes are possible as to the amount of large coal which has been extracted, though great doubt exists whether it is lawful to pay for the dust otherwise than at the same rate as large coal. But it is to be observed that inasmuch as the second part of sect. 17 above mentioned requires that the deductions shall be "determined by the weigher and check weigher (if there be one)," it is needful that the check weigher should not only see to the weighing machine, which he may do or not as he likes, but he *must* also see to the operation of "Billy Fairplay," for otherwise if he does not the whole deduction which "Billy Fairplay" is meant to effectuate is one not determined by the weigher *and check weigher*, and is therefore not done in the manner provided by the Act. It apparently does not seem that a check weigher who assents to a boy reading the deductions from the machine has properly "determined" them. The subsequent Act of 1887 contains an amendment upon this point.

BOURNE AND OTHERS *v.* THE NETHERSEAL COLLIERY COMPANY, LIMITED, 19 Q. B. D. p. 357; [also reported 14 App. Cas. 228; 59 L. J. Q. B. 66; 61 L. T. 125 (*a*)].

No dispute of importance seems to have arisen [on the subject of check weighing] (*a*) . . . . until the year 1887, when the above case was tried, and lasted two years, going up eventually to the House of Lords.

In this case the facts are as follow :—

The plaintiff colliers had taken service under a written agreement, whereby it was provided "*that the mineral contracted to be gotten, referred to in the Act of* 1872, *should mean clean coal only;*" but this was afterwards modified by a subsequent agreement providing "*that coal should be paid for at* 1*s.* 6*d. a ton, and that no slack whatever should be paid for except that sent out as heading slack, all other slack to be deducted from the different places in proportion to their loading.*" This, of course, was inconsistent with the provision that *only* clean coal should be the mineral contracted to be gotten, for it provided that "heading slack" should be paid for. It was, however, clear that other slack should be deducted.

The coal was first weighed as it came up, slack or dust, dirt and all, in the presence of the check weigher. Then it was put upon "Billy Fairplay" and screened, and the slack which was screened off was weighed, the weight being observed and noted down in a book by a boy. Inasmuch as "Billy Fairplay" was put at some distance from the mouth of this pit where the check weigher was stationed, *the check weigher did not see the slack weighed, though the owners offered to let him do so if the men pleased, and even offered to pay a check weigher to act in determining the slack.*

Some of the men having received their pay, which had been determined by deducting the slack from the coal, brought an action in the County Court to recover the pay in respect of the slack, which they said had been improperly deducted.

There was no pretence for saying in this case that any unfairness had been practised either by masters or by men. All that had been done was to weigh the coal in the presence of their check weigher, then to automatically separate the slack and weigh it, by a machine (in respect of which the owners offered to pay a check weigher to superintend it on the men's behalf), and the colliers were paid wages on the difference. They had been paid for every bit of big coal they got.

The County Court judge gave judgment for the colliery owners; the men appealed. Their point was, that the only legal deduction that could be made was one determined by the weigher *and check weigher*, but that here the check weigher did not see "Billy Fairplay," and hence had not determined the deduction, which therefore could not be made. The answer offered by the masters was

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(*a*) The words in brackets are inserted by the present authors, who desire to draw special attention to the fact that this decision was one under the Act of 1872; that it had been desired to render the law more elastic by the Act of 1887; but that the decision in *Huggins* v. *London and South Wales Colliery Co.* (otherwise *Brace* v. *Aberdare Coal Co.*), *post*, p. 171, shews that, in some respects, the construction of the Act of 1887 is the same as was that of the Act of 1872.

that the men had consented to the mode in which the deductions had been arrived at.

If indeed it could have been shown that the particular plaintiffs in this action had known of the owners' offer to appoint and pay a check weigher to act for the men, and had worked and received wages, well knowing that no check weigher was acting at "Billy Fairplay," then it might probably have been argued with success that although no doubt an offence had been committed by all parties, yet the men by their conduct were estopped from taking the benefit of it, and therefore not entitled to recover. But no such estoppel was shown; the Divisional Court, Stephen and Wills, JJ., therefore decided the case on the simple ground that no deductions were allowed by the Act unless they had been determined by the check weigher; that deductions in this case had been otherwise determined, *i.e.*, by a boy who recorded the weights shown by the machine "Billy Fairplay;" and that, apart from these deductions, the men were entitled to wages on the coal weighed.

But although it was correct enough to say that the deductions were not admissible, not having been properly made, yet the questions remained, were the men under the above contract entitled to be paid on more than *the clean coal gotten*, in other words, was there ever any contract on the part of the employers to pay for anything else than clean coal? and if not, how could the men recover?

The case was therefore taken to the Court of Appeal, but, unfortunately, owing to the imperfect way in which it has been reported, the contract as set out in the report in the Appeal Court differs from that set out in the report in the Court below, and differs by some words which, as we shall presently see, make all the difference as to the decision.

For in the Appeal Court the contract is given as follows, and is no doubt the correct one:—"*Main coal. It is agreed that coal sent from the stalls and headings shall be paid for at* 1*s.* 6*d. a ton, and heading slack at* 7*d. per ton; all other prices as at present paid to remain in operation. . . . . No slack whatever will be paid for except that sent out as heading slack; all other slack will be deducted from the different places, in proportion to their loading.*"

Accordingly, when the case was carried to the Court of Appeal, this new aspect had to be considered, and gave rise to great difficulty.

Lord Justice Fry, who differed from the rest of the Court, considered that the clause was only made applicable by the Act in cases in which the men were paid according to the amount of mineral gotten by them, that is to say (as he explained), when they were paid on the total amount brought by them to bank; but here they were not so paid, they were only to be paid on clean coal. They were therefore not paid on the amount gotten by them, but only on the residue of the amount gotten, after slack was deducted, and, therefore, as they were not paid on the amount of the mineral gotten, the clause did not apply at all, and the whole affair was one of free contract.

The difficulty in the way of such an interpretation was, that they were employed to get *clean coal*, and by the very terms of their contract this *clean coal* was the mineral which they were to get. Hence, then, the only "mineral gotten by them" was the clean coal on which they were to be paid, and the very reference to the

statute in the contract makes it clear that the men did not intend to contract out of it.

Lord Justice Fry's second point was more difficult to meet. He said, the men are claiming 1*s.* 6*d.* per ton on certain slack or dust, but who contracted to pay them this sum? The contract was only to pay them on clean coal. If they are to have anything it ought to be on a *quantum meruit* as to the amount per ton. Even granted that the deduction is illegal, still that does not entitle them to a payment which was not contracted to be paid.

In fact, Lord Justice Fry's argument came to this:—The men have agreed *not* to receive payment for slack—it is only by virtue of an agreement that they can be paid at all. How, therefore, can you propose to pay them for something which they have agreed not to be paid for?

This, however, was met by Lord Esher and Lord Justice Lopes, as follows:—

In the first place, they thought that the deductions were clearly bad, as not having been "determined" as provided by the statute. They therefore thought that these deductions were inadmissible. But now arose the next question:—Granting that the deductions are not admissible, upon what are the men to be paid? This is determined by the contract; they are to be paid on "coal sent from the stalls and headings." Now the word "coal" here must, they thought, mean coal including slack, for otherwise what was the use of proposing to "*deduct*" slack if the word "coal" did not include it? In fact, their interpretation of the contract was, that by it the men were *primâ facie* to be paid the full price for coal on all *material* brought from the stalls and headings, whether such material were clean coal or slack coal; and that if it were intended to treat the material otherwise than as clean coal, this could only be done by way of *deduction*, and that such deduction must be strictly according to the Act and not otherwise.

The Court of Appeal in effect held that the meaning of this contract having reference to the statute was that the men were to be paid on the total material gotten and brought up to the surface, subject only to such deductions for slack as the bankman and check weighman should themselves personally determine by inspection.

The case then went to the House of Lords (Appeal Cases, 1889 (i), p. 234).

Lord Halsbury (Lord Chancellor) considered (1) that the statute was intended to restrict freedom of contract, and (2) that where an agreement was made to pay wages according to the amount of mineral gotten, its amount could only be determined in the manner pointed out by the Act and not otherwise, (3) that the statute obviously intended that what was to be weighed was the whole substance sent up in the tubs. And he went on to say that any contract which endeavoured to provide for payment by weight otherwise than by weighing the whole amount sent up in the tubs, and then proceeding to make deductions according to the statutory method, would offend against the statute and be illegal; and that the only way to treat this as a legal contract was to consider it as one to pay on all the *coal sent up in the tubs*, less the statutory deductions determined in the statutory way.

Lord Bramwell decided the case in the same manner, but with different reasons. He considered that, having regard to the first

part of the section, it would be perfectly lawful to contract that the "mineral gotten" was to be big coal only and that slack should not be weighed, or if weighed in with the coal, then weighed separately and deducted, but he said that this reading of the statute must in his view be subjected to the words "such deductions to be determined by the check weigher."

He treated the question of waiver, but held that the penal clause at the end precluded the miners from waiving the method pointed out in the section, and ended by describing the claim of the miners as "barely honest," and expressed regret for the decision he felt bound to give.

Lord Herschell considered that the section was a restriction upon contracts, and that the words "mineral gotten" must mean mineral actually gotten, and that any contract to pay according to amount, whether it were amount of clean coal, or of coal with slack, was still a contract in substance to pay according to the mineral gotten, and that hence what was meant by the section was, that where the men's pay depended upon the amount which they got, that then they were entitled to be paid according to the weight of the hutches sent out of the mine, and that the only deductions allowable were those specially provided.

It will be seen from a perusal of the judgments in the various Courts that the judges were by no means unanimous in the view they took of the law.

For some of them went so far as to say that since slack was coal, and coal was the mineral contracted to be gotten, payment must be made on it, and no deduction would be possible, unless possibly in a case where the men had been ordered to send up no slack, and thus the hutches might be considered as improperly filled.

Others did not take so wide a view, but contented themselves by deciding that even if deductions for slack were lawful, yet here they had not been made as required by the check weigher.

As to the first of these points, it is to be observed that the courts were interpreting a particular contract drawn up in language which is by no means clear, and hardly amounts to a decision that no contract whatever for the deduction of slack is lawful. As to the second point, this decision may perhaps be open to question, for if the weighing of the dirt was effected by an automatic machine, always open to inspection by the check weigher, it might seem that if he assented to the use of this machine, the deductions made according to it were really determined "by him"—the boy who read them off being his agent. It is, however, to be observed that the Act apparently does not contemplate a check weigher doing his work by deputy. Hence the word "determined" must be apparently taken as "personally determined."

This is a very strict interpretation of the Act.

The above decision led to an attempt to amend the Act of 1872, by making it not essential to the validity of deductions that they should be made by a check weigher (*a*).

The amending section (12) of the Act of 1887 is given below, with

(*a*) As to how and in what direction it was proposed to so attempt, see extracts from the speech of Mr. Secretary Matthews, set out *post*, p. 170 *n.*, and also Home Office Instructions, set out in Introduction at p. 6 thereof. As to how far such attempt has succeeded, see *ante*, p. 31, and the decisions there cited, and also *supra*, pp. 144 *et seq.*

section 17 of the Act of 1872 printed beside it for the purpose of comparison.

| 1872 Section. | 1887 Section. |
|---|---|
| **17.** Where the amount of wages paid to any of the persons employed in a mine to which this Act applies depends on the amount of mineral gotten by them, such persons shall, after the first day of August one thousand eight hundred and seventy-three, unless the mine is exempted by a Secretary of State, be paid according to the weight of the mineral gotten by them, and such mineral shall be truly weighed accordingly.<br>Provided always, that nothing herein contained shall preclude the owner, agent, or manager of the mine from agreeing with the persons employed in such mine that deductions shall be made in respect of stones or materials other than mineral contracted to be gotten, which shall be sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs, baskets, or hutches being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him, such deductions being determined by the banksman or weigher and check weigher (if there be one), or in case of difference by a third party to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other.<br>Where it is proved to the satisfaction of a Secretary of State that by reason of any exigencies existing in the case of any mine or class of mines to which the foregoing provision in this section applies, it is requisite or expedient that the persons employed in such mine or class of mines should not be paid by the weight of the mineral gotten by them, or that the beginning of such payment by weight should be postponed, such Secretary of State may, if he think fit, by order exempt such | **12.**—(1.) Where the amount of wages paid to any of the persons employed in a mine depends on the amount of mineral gotten by them, *those persons shall be paid according to the actual weight gotten by them of the mineral contracted to be gotten, and the mineral gotten by them shall be truly weighed at a place as near to the pit mouth as is reasonably practicable.*<br>Provided that nothing in this section shall preclude the owner agent or manager of the mine from agreeing with the persons employed in the mine that deductions shall be made in respect of stones or *substances* other than the mineral contracted to be gotten, which shall be sent out of the mine with the mineral contracted to be gotten, or in respect of any tubs, baskets or hutches being improperly filled in those cases where they are filled by the getter of the mineral or his drawer, or by the person immediately employed by him; *such deductions being determined in such special mode as may be agreed upon between the owner agent or manager of the mine on the one hand, and the persons employed in the mine on the other, or by some person appointed in that behalf by the owner agent or manager, or (if any check weigher is stationed for this purpose as hereinafter mentioned), by such person and such check weigher,* or in case of difference by a third person to be mutually agreed on by the owner, agent, or manager of the mine on the one hand, and the persons employed in the mine on the other, or in default of agreement appointed by a chairman of a court of quarter sessions within the jurisdiction of which any shaft of the mine is situate.<br>(2.) If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section, he shall |

| 1872 Section. | 1887 Section. |
|---|---|
| mine or class of mines from the provisions of this section, either without condition or during the time and upon the conditions specified in the order, or postpone in such mine or class of mines the beginning of such payment by weight, and may from time to time revoke or alter any such order.<br>If any person contravenes or fails to comply with, or permits any person to contravene or fail to comply with, this section, he shall be guilty of an offence against this Act; and in the event of any contravention of or non-compliance with this section by any person whomsoever, the owner, agent, and manager shall each be guilty of an offence against this Act, unless he prove that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent such contravention and non-compliance. | be guilty of an offence against this Act; and in the event of any such contravention or non-compliance by any person whomsoever, the owner, agent, and manager of the mine shall each be guilty of an offence against this Act, unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the provisions of this section to prevent the contravention or non-compliance.<br>(3.) Where it is proved to the satisfaction of a Secretary of State, in the case of any mine or class of mines employing not more than thirty persons underground, to be expedient that the persons employed therein should, upon the joint representation of the owner or owners of any such mine or class of mines and the said persons, be paid by any method other than that provided by this Act, such Secretary of State may, if he think fit, by order allow the same either without conditions or during the time and on the conditions specified in the order. |

The object of these alterations was explained by Mr. Matthews in a speech in the House on the 3rd September, 1887 (see Hansard, vol. 330, p. 1099), in which he stated that, in consequence of the Netherseal decision, he had provided—

"That the deductions might be ascertained in three ways. First by any special mode that might be agreed on between the owner and the men. That let in all such arrangements as the use of a 'Billy Fairplay' and the establishment of a certain average percentage for dirt, stones, and so on. Secondly, he provided that the workmen might, if they thought fit, have a separate check weigher on the spot to determine the deductions together with the banksman or representative of the owner, and lastly, if the workmen did not care to appoint a check weigher, or if that check weigher was culpably absent, then the banksman or man appointed by the owner was empowered to go on alone and determine the deductions. He had endeavoured to protect the interests both of the owner and of the men. The deductions would, he thought, be fairly made under the plan which he proposed. Of course no one would wish that an owner should be compelled to pay for stone as if it were coal. He very much regretted to have to introduce the amendment

on the report stage; but in view of the decision to which he had referred he felt he would be very much to blame if he did not attempt to clear up the point."

It is to be observed that the use of the words "such persons shall be paid according to the *actual* weight gotten by them of the mineral contracted to be gotten," was probably intended to emphasize the fact that it was not upon gross weight of the tub that they were to be paid, but only on the amount which the tubs contained of the "mineral contracted to be gotten."

Shortly after the Act [of 1887 (*a*)] was passed, viz., in 1890, another case arose and came before the Court of Appeal—

HUGGINS *v.* LONDON AND SOUTH WALES COLLIERY COMPANY, C. A. [1891] Q. B. 699; [also reported 60 L. J. 706; 65 L. T. 694; 56 J. P. 20 (*a*)].

The decision of the Court was, that the words "weight of the mineral gotten" in sect. 17 of the Act of 1872 and "weight gotten of the mineral contracted to be gotten" in the Act of 1887 really amounted to the same thing.

In this case the contract between the owners and men was on what is known as the sliding scale, which was then, and still is, in use in South Wales.

The coal was weighed, and then the small coal separated by a Billy Fairplay, and the weight of the small coal noted by a "Billy-boy" (*i.e.*, a boy placed at the machine for that purpose).

The agreement was that no small coal was to be paid for; but the men were not prohibited from sending it up.

The question was whether this satisfied the new Coal Mining Act of 1887. The Court held that under the Act of 1887 the mode of determing the wages was just as illegal as before; the words were that the men should be paid according to the mineral contracted to be gotten, which was *coal*, whether in lumps or in dust. It was also decided that the deductions in respect of the small coal were illegal. The words of the Act were that deductions might be made for (1) stones or *substances* other than the mineral contracted to be gotten; or else (2) for improper filling of hutches. But here the slack was not a substance "other than the mineral contracted to be gotten"; on the contrary, it was *coal*. And, again, it could not be said to be improperly filled, for the men were not forbidden to send it up; on the contrary, their duty was to send up what there was of it. Therefore, since the deduction for small coal was not a deduction permissible by the Act, it could not be made at all. The words "such deductions being made in such special manner" had perhaps been intended to give a greater power of arranging them, but did not render any legal which were not included in the earlier words.

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(*a*) These explanatory words are also inserted by the Authors, who would also point out that in the Law Reports the above case is reported under the name of *Brace* v. *Aberdare Colliery Co.*, and would further direct special attention to the fact that it was a decision under the existing Coal Mines Regulation Act, 1887.

In consequence, it would appear that, strictly speaking, an owner has no choice but to forbid his men to send up small coal at all, or else to pay for it the full price as if it was large coal. He has no power even by agreement to obtain it free, or to charge a special price for it. In spite, however, of the pronounced illegality of the sliding scale, it appears to have been re-enacted in 1892, and has remained in force in South Wales up to this time by mutual consent.

The effect of this decision was to show that the original intention of the framers of the Act of 1872, as well as of those who amended that Act by the Act of 1887, had not been successful.

They had intended to leave deductions from the weight of the coal a matter of free contract, subject to the decision of an arbitrator in case of disagreement. But the words of the Act had not been made sufficiently wide to carry out that intention.

The case was followed by—

KEARNEY *v.* THE WHITEHAVEN COLLIERY COMPANY, 1 Q. B. D. 1893, p. 700; [also reported 62 L. J. M. C. 129; 68 L. T. 690; 57 J. P. 645; 41 W. R. 594(*a*)].

This case was a prosecution of a collier by his employers for not going to his work. The collier said his action was justified in that he had not been paid the wages legally owing to him, and thus incidentally the check weighing question was raised. The facts are as follows:—

An agreement was made between the employers and men that if the amount of dirt sent up in the coal should exceed 25 lbs. in the tub (of about 15 cwt.) then half of the tub was to be forfeited, that is to say, no wages were to be paid in respect of half of the tub—and other more severe losses of weight were to be inflicted if a greater proportion of dirt was sent up. The amount of money paid per ton is not mentioned, but in considering the case it may be assumed that the deductions for the dirt were out of proportion to the percentage of the dirt, and if the dirt exceeded 35 lbs. in the hutch, then the whole tub or hutch was forfeited. No evidence seems to have been given as to the diminution to the value of the coal caused by the presence of dirt.

The magistrate found for the owners. The Divisional Court was divided. Grantham, J., thought the arrangement legal. Charles, J., thought that it contravened the provision that the men were to be paid "according to the actual weight gotten of the mineral contracted to be gotten," and that though deductions might be made by agreement, yet they were not to be so made as to contravene that provision. They both, however, thought that legal or illegal the provision did not justify the collier in not going to work, and decided for the owners.

In the Court of Appeal the gist of the judgment of Lords Esher, Lopes, and A. L. Smith was, that the meaning of the Act was that the men were to be paid according to the actual weight of everything in those tubs whether coal or not. Lord Esher emphasized Lord Halsbury's judgment, saying that "'the amount of mineral

(*a*) These words are added by the Authors. This case also was a decision under the Coal Mines Regulation Act, 1887.

gotten by them' means the amount of mineral which a man in the ordinary course of the business of mining puts into the tub, and something else. It means everything which is in the tub whether or not there is matter in it which is not mineral. If that be so the mine-owner would be paying on the weight of mineral which had not been gotten, unless the statute provided some means of aiding him."

And he went on to say that the provision that the men were to be paid according to the *actual* weight governed the section providing for deductions, and only rendered such deductions lawful as represented the actual amount of dirt or stones improperly put into the hutch. Such amount, he thought, might be determined either by actually weighing the dirt in each individual hutch or by some fair method of average.

The result of this decision and of the Netherseal case seems to be that the Acts prescribe that where wages are paid on amount gotten the "amount gotten" must be truly weighed, and that for this purpose the words "amount gotten" must be held to include dirt, stones and all. But that deductions for dirt and improper filling may be made in any agreed mode between masters and men provided such deductions do not exceed the actual quantity of the dirt or stones respectively.

Then followed two [Scotch (*a*)] cases in 1894, one called the "Orbiston" case, the other the "Fairhill" case.

THE "FAIRHILL" CASE (HASTIE *v.* ATKINSON, JULY 1894). (31 Scottish Law Reports, 892) (*b*).

This case was decided on an agreement that if hutches or trucks were filled with more than 10 cwt. of coal, nothing should be paid as wages on the excess.

A weighing machine capable of weighing up to 10 cwt. was used; if the weight were more, it was treated as 10 cwt.

It was objected for the men (a) that the "mineral gotten" was not "truly weighed"; and (b) that the deduction amounted to a fine. But the Court held that the mineral gotten had been sufficiently truly weighed for the purposes of assessing the wages on it, and that there was no reason why the deduction should not be considered lawful. The tubs were "improperly filled to the extent to which more than 10 cwt. was put in them."

THE "ORBISTON" CASE (MOWATT *v.* RONALDSON, 17TH JULY 1893). (31 Scottish Law Reports, 896) (*b*).

This case was one of an agreement for the deduction of a fixed amount on each truck for dirt, viz., 56 lbs. per hutch.

The Court held this good as a "special mode" of arriving at deductions for stones and dirt.

It is very difficult to venture on any attempt to make any general

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(*a*) This word has been inserted by the authors.

(*b*) These cases were also decisions under the Coal Mines Regulation Act, 1887.

statement upon the law regarding deductions from coal, for the effect of these cases has been to render the law very doubtful.

It seems, however, to be established, so far as it is possible to pronounce an opinion on these very difficult questions—

(1.) That no contract to deduct small coal from the weight of the hutch, or to deduct any wages on account of it, is legal. It must be paid for as large coal.

(2.) But that if the men are forbidden to send it up, it may be treated as improper filling.

(3.) That dirt and stones may be the subject of deduction, but not to an excess of their actual or averaged amount.

(4.) But that a special fixed weight may be deducted from each hutch in respect of the dirt.

(5.) It therefore seems to follow that if owners and miners desire to arrange a scale of payment for small coal, or dust, at a rate less than that of large coal they cannot do so, and that the owner must pay for dust the full price per ton for large coal, though it also seems probable that he may forbid the men to send it up, and deduct it all as "improper loading." In this case the men would get nothing for any small coal or dust which they sent up.

(6.) It has been also decided that the owners may fix a maximum weight of coal for each hutch, and pay nothing for all coal sent up in the hutch above that weight, even though such overloading is done inadvertently and in good faith.

(7.) It is, however, to be observed that the above conclusions rest on the assumption that the contract, as made between the owners and men, is for the getting of "coal." Suppose the contract had expressly been, not for the getting of "coal," but for the getting of a mineral consisting of whole coal mixed with a certain amount of small coal, or whole coal mixed with a certain amount of dirt, and with prices so arranged as to treat coal mixed with a certain amount of slack as one sort of mineral, to be paid at a certain price per ton, and coal mixed with a different amount of slack, as a different sort of mineral, to be paid for at a different price per ton. The question arises whether this would be legal. If it would, then the deduction clauses of the Act would not be necessary; there would be no deductions to make; contract would be free, and all the decided cases would no more affect the question than if they had never occurred, and thus, although it would be illegal to pay for coal at (say) 2*s.* a ton, and deduct 6*d.*, or forfeit 5 cwt. for every 10 lbs. of dust in the hutch; yet it would be legal to agree that only 1*s.* 6*d.* should be given for coal containing more than 10 lbs of dirt in the hutch; which, so far as the miners' pay was concerned would amount precisely to the same thing.

It might be argued on the one side that the Act, though it has said that the men are to be paid according to the weight of "the mineral contracted to be gotten," has not defined what is to be understood by these words, and that

they may mean coal mixed with dirt, or coal free from dirt, or coal with a certain percentage of dirt.

On the other it might be urged that this interpretation would practically render the existing clause of the Act useless to the miners.

This difficult point has not yet been raised, but some of the highest legal authorities have expressed conflicting opinions respecting it.

The conflicting character of the above decisions, and the doubts which have been raised on many subsidiary points, added to the complaints that were received from some parts of the kingdom, and the fear lest there might be a possibility, by a suitably arranged contract, of rendering the Act altogether nugatory, induced the late Secretary of State (Mr. Asquith) to deal with the matter in his Coal Mines Bill, 1895 (*a*).

The effect of the clause suggested by him was to permit the masters and men to contract freely for such deductions as they chose in respect of dirt or small coal, provided that the deductions were reasonable, but to render all deductions which were not reasonable illegal, whether they were otherwise legal or no.

In conclusion the Authors submit that, for the reasons already given (*a*), it may be possible under the existing law, and without resort to legislation to sanction it, to frame a contract which will legalise reasonable deductions from the wages of miners, without infringing the strict letter of the law.

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[(*a*) Authors' note: see remarks, *ante*, pp. 144 *et seq.*]

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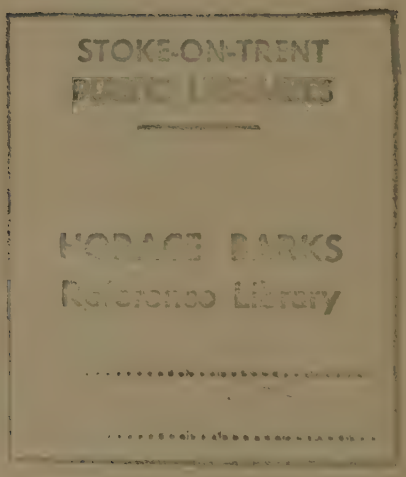

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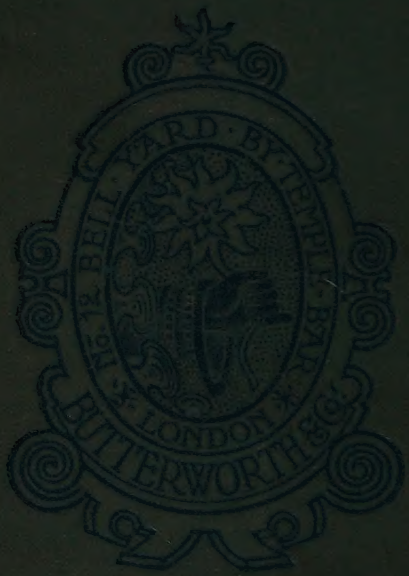
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